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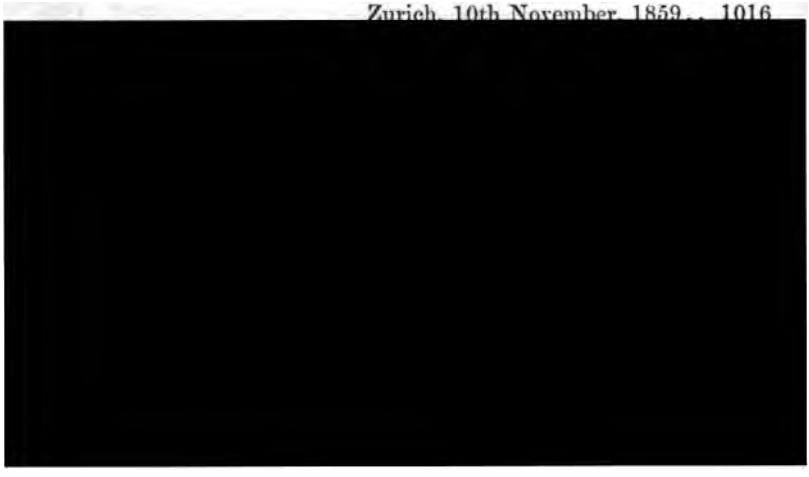
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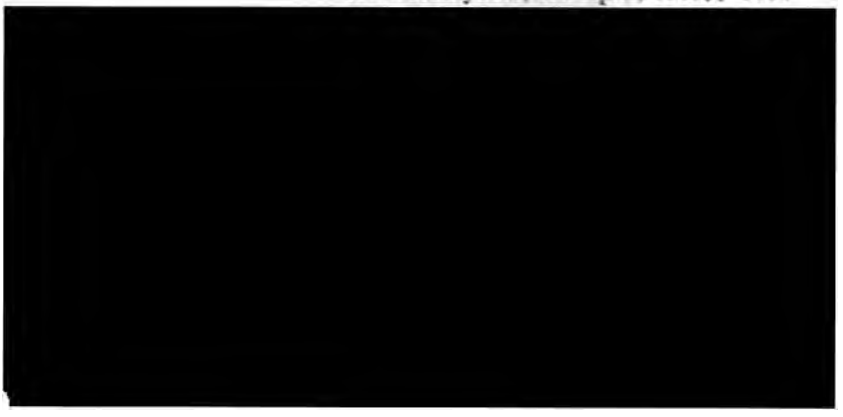
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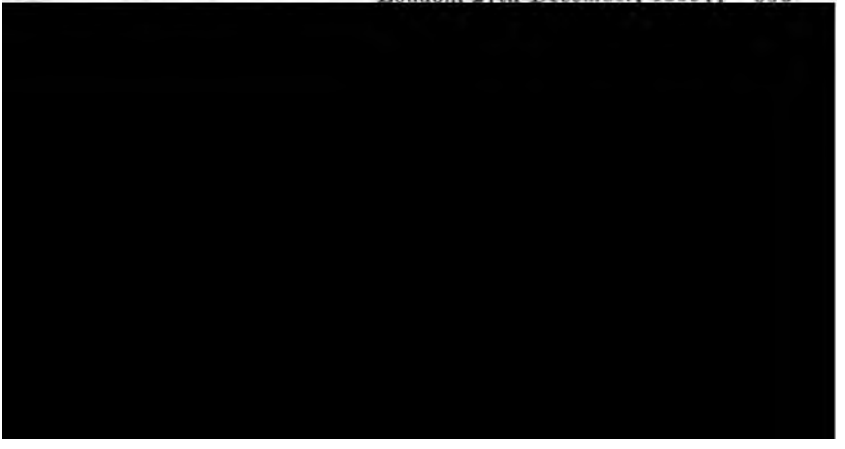
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BRITISH AND FOREIGN
State Papers.

SPEECH of the Queen, on the Opening of the British Parliament.—Westminster, January 24, 1860.

My Lords and Gentlemen,

It is with great satisfaction that I again meet you in Parliament, and have recourse to your assistance and advice.

My relations with foreign Powers continue to be on a friendly and satisfactory footing.

At the close of the last session I informed you, that overtures had been made to me, to ascertain whether, if a Conference should be held by the great Powers of Europe, for the purpose of settling arrangements connected with the present state and future condition of Italy, a Plenipotentiary would be sent by me to assist at such a Conference. I have since received a formal invitation from the Emperor of *Austria* and from the Emperor of the *French* to send a *Plenipotentiary* to a Congress, to consist of the Representatives of the Eight Powers who were parties to the Treaties of *Vienna* of 1815; the objects of such Congress being stated to be, to receive communication of the Treaties concluded at *Zurich*; and to deliberate, associating with the above-mentioned Powers the Courts of *Rome*, of *Sardinia*, and of the *Two Sicilies*, on the means best adapted for the pacification of *Italy*, and for placing its prosperity on a solid and durable basis.

Desirous, at all times, to concur in proceedings having for their object the maintenance of peace, I accepted the invitation, but, at the same time, I made known that in such a Congress I should steadfastly maintain the principle that no external force should be employed to impose upon the people of *Italy* any particular Government or Constitution.

Circumstances have arisen which have led to a postponement of the Congress, without any day having been fixed for its meeting; but, whether in Congress or in separate negotiation, I shall endeavour to obtain for the people of *Italy* freedom from foreign interference by force of arms in their internal concerns; and I trust that the affairs of the *Italian Peninsula* may be peacefully and satisfactorily settled.

Papers on this subject will soon be laid before you.

I am in communication with the Emperor of the *French*, with a view to extend the commercial intercourse between the two

countries, and thus to draw still closer the bonds of friendly alliance between them.

A dispute having arisen between *Spain* and *Morocco*, I endeavoured by friendly means to prevent a rupture; but, I regret to say, without success.

I will direct papers on this subject to be laid before you.

My Plenipotentiary and the Plenipotentiary of the Emperor of the *French* having, in obedience to their instructions, proceeded to the mouth of the Peiho river, in order to repair to *Pekin*, to exchange in that city the ratifications of the Treaty of *Tien-tsin*, in pursuance of Article LVI of that Treaty, their further progress was opposed by force, and a conflict took place between the *Chinese* forts at the mouth of the river and the naval forces by which the Plenipotentiaries were escorted.

The allied forces displayed on this occasion their usual bravery; but, after sustaining a severe loss, were compelled to retire.

I am preparing, in concert and co-operation with the Emperor of the French, an expedition intended to obtain redress and a fulfilment of the stipulations of the Treaty of *Tien-tsin*.

It will be gratifying to me if the prompt acquiescence of the Emperor of *China* in the moderate demands which will be made by the Plenipotentiaries, shall obviate the necessity for the employment of force.

I have directed that papers on this subject shall be laid before you.

An unauthorized proceeding by an officer of *The United States* in regard to the *Island of San Juan*, between *Vancouver's Island* and the mainland, might have led to a serious collision between my forces and those of *The United States*. Such collision, however, has been prevented by the judicious forbearance of my naval and civil officers on the spot, and by the equitable and conciliatory provisional

the country. The attention of the Government in *India* has been directed to the development of the internal resources of the country, and I am glad to inform you that an improvement has taken place in its financial prospects.

I have concluded a Treaty with the Tycoon of *Japan*, and a Treaty regarding boundaries with the Republic of *Guatemala*. I have directed that these Treaties shall be laid before you.

Gentlemen of the House of Commons,

I have directed the estimates for the ensuing year to be laid before you. They have been prepared with a view to place the Military and Naval Services, and the defences of the country, upon an efficient footing.

I am glad to be able to inform you that the public revenue is in a satisfactory condition.

My Lords and Gentlemen,

I have accepted, with gratification and pride, the extensive offers of voluntary service which I have received from my subjects. This manifestation of public spirit has added an important element to our system of national defence.

Measures will be laid before you for amending the laws which regulate the representation of the people in Parliament, and for placing that representation upon a broader and firmer basis.

I earnestly recommend you to resume your labours for the improvement of our Jurisprudence, and particularly in regard to Bankruptcy, the Transfer of Land, the Consolidation of the Statutes, and such a further fusion of law and equity as may be necessary to ensure that in every suit the rights of the parties may be satisfactorily determined by the Court in which the suit is commenced.

I am deeply gratified to observe that the great interests of the country are generally in a sound and thriving condition; that pauperism and crime have diminished; and that, throughout the whole of my empire, both in the *United Kingdom* and in my colonies and possessions beyond sea, there reigns a spirit of loyalty, of contentment, of order, and of obedience to the law.

With heartfelt gratitude to the Almighty Ruler of nations for these inestimable blessings, I fervently pray that His beneficent power may guide your deliberations for the advancement and consolidation of the welfare and happiness of my people.

SPEECH of the Lords Commissioners, on the Closing of the British Parliament.—Westminster, August 28, 1860.

My Lords and Gentlemen,

We are commanded by Her Majesty to release you from further attendance in Parliament, and at the same time to convey to you Her Majesty's acknowledgments for the zeal and assiduity with which you have applied yourselves to the performance of your important duties during the long and laborious session of Parliament now about to close.

Her Majesty commands us to inform you that her relations with Foreign Powers are friendly and satisfactory, and Her Majesty trusts that there is no danger of any interruption of the general peace of *Europe*. Events of considerable importance are indeed taking place in *Italy;* but if no Foreign Powers interfere therein, and if the *Italians* are left to settle their own affairs, the tranquillity of other States will remain undisturbed.

The proposed Conferences on the subject of the cession of *Savoy* and of *Nice* to *France* have not yet been held; but Her Majesty confidently trusts that in any negotiations which may take place full and adequate arrangements will be made for securing, in accordance with the spirit and letter of the Treaty of *Vienna* of 1815, the neutrality and independence of the *Swiss* Confederation.

That neutrality and independence were an object to which all the Powers who were parties to the Treaties of *Vienna* attached great importance; and they are no less important now than then, for the general interests of *Europe*.

Her Majesty commands us to assure you, that the atrocities which have been committed upon the Christian population in *Syria* have inspired Her Majesty with the deepest grief and indignation.



Her Majesty, desirous of giving all possible weight to her diplomatic action in this matter, has sent to *China*, as special Ambassador for this service, the Earl of *Elgin*, who negotiated the Treaty of *Tien-tsin*, the full and faithful execution of which is demanded from the Emperor of *China*.

Gentlemen of the House of Commons,

Her Majesty commands us to convey to you her warm acknowledgments for the liberal supplies which you have granted for the service of the present year, and for the provision which you have made for those defences which are essential for the security of her dockyards and arsenals.

My Lords and Gentlemen,

Her Majesty commands us to express to you the gratification and pride with which she has witnessed the rapid progress in military efficiency which her Volunteer forces have already made, and which is highly honourable to their spirit and patriotism.

Her Majesty has given her cordial assent to the Act for amalgamating her local *European* force in *India* with her forces engaged for general service.

Her Majesty trusts that the additional freedom which you have given to commerce will lead to fresh development of productive industry.

Her Majesty has given her ready assent to several measures of great public usefulness.

The Acts for regulating the relations between landlord and tenant in *Ireland* will, Her Majesty trusts, remove some fertile causes of disagreement.

The Act for amending the law which regulates the discipline of Her Majesty's navy has established salutary rules for the administration of justice by Courts-martial, and for maintaining good order in the naval service.

The Act bearing upon endowed charities will give means for a less expensive administration of the property of charities, and for the speedy and economical settlement of disputes affecting such property, while by another Act relief has been afforded to Her Majesty's Roman Catholic subjects with regard to their charitable endowments.

Several other Acts have been passed for legal reform, which must lead to the more satisfactory administration of justice.

Her Majesty has observed with deep satisfaction the spirit of loyalty, of order, and of obedience to the law, which prevails among her subjects both in the United Kingdom and in her dominions beyond sea; and Her Majesty has witnessed with heartfelt pleasure

the warm and affectionate reception given to His Royal Highness the Prince of *Wales* by her *North American* subjects.

You will on returning to your several counties have duties to perform scarcely less important than those which have occupied you during the session of Parliament; and Her Majesty fervently prays that the blessing of Almighty God may attend your efforts, and guide them to the attainment of the objects of her constant solicitude—the welfare and the happiness of her people.

CONVENTION between Great Britain, Austria, France, Prussia, Russia, and Turkey, respecting Measures to be taken for the Pacification of Syria.—Signed at Paris, September 5, 1860.

[Ratifications exchanged at Paris, October 18, 1860.]

Sa Majesté Impériale le Sultan voulant arrêter, par des mesures promptes et efficaces, l'effusion du sang en Syrie, et témoigner de sa ferme résolution d'assurer l'ordre et la paix parmi les populations placées sous sa souveraineté; et leurs Majestés la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, l'Empereur d'Autriche, l'Empereur des Français, Son Altesse Royale le Prince Régent de Prusse, et Sa Majesté l'Empereur de Toutes les Russies, ayant offert leur co-opération active, que Sa Majesté le Sultan a acceptée;

Leurs dites Majestés et Son Altesse Royale ont résolu de conclure une Convention à cet effet, et ont nommé pour leurs Pléni-

tolique, son Ambassadeur Extraordinaire près Sa Majesté l'Empereur des Français;

Sa Majesté l'Empereur des Français, M. Edouard Antoine Thouvenel, Sénateur de l'Empire, Grand-Croix de l'Ordre Impérial de la Légion d'Honneur, Grand-Croix de l'Ordre Impérial de la Couronne de Fer d'Autriche, de l'Ordre Impérial de St. Alexandre Newski de Russie, décoré de l'Ordre Impérial du Medjidié de première classe, &c., son Ministre et Secrétaire d'Etat au Département des Affaires Etrangères;

Son Altesse Royale le Prince Régent de Prusse, M. le Prince Henri VII de Reuss-Schleiz-Köstritz, Chevalier de l'Ordre Royal de l'Aigle Rouge de quatrième classe, de l'Ordre de St. Jean de Jérusalem de Prusse, &c., son Chargé d'Affaires par intérim à Paris;

Sa Majesté l'Empereur de Toutes les Russies, M. le Comte Paul de Kisséleff, son Aide-de-camp Général, Général d'Infanterie, Membre du Conseil de l'Empire, Chevalier des Ordres de Russie, décoré du double portrait en brillants des Empereurs Nicolas I et Alexandre II, Grand-Croix de l'Ordre Impérial de la Légion d'Honneur, ayant le portrait du Sultan en diamants, &c., son Ambassadeur Extraordinaire et Plénipotentiaire près Sa Majesté l'Empereur des Français;

Et Sa Majesté l'Empereur des Ottomans, Ahmed Vefik Efendi, décoré de l'Ordre Impérial du Medjidié de deuxième classe, &c., son Ambassadeur Extraordinaire près Sa Majesté l'Empereur des Français;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivants:

Art. I. Un corps de troupes Européennes, qui pourra être porté à 12,000 hommes, sera dirigé en Syrie pour contribuer au rétablissement de la tranquillité.

II. Sa Majesté l'Empereur des Français consent à fournir immédiatement la moitié de ce corps de troupes. S'il devenait nécessaire d'élever son effectif au chiffre stipulé dans l'Article précédent, les Hautes Puissances s'entendraient sans retard avec la Porte, par la voie diplomatique ordinaire, sur la désignation de celles d'entre elles qui auraient à y pourvoir.

III. Le Commandant-en-chef de l'expédition entrera, à son arrivée, en communication avec le Commissaire Extraordinaire de la Porte, afin de combiner toutes les mesures exigées par les circonstances, et de prendre les positions qu'il y aura lieu d'occuper pour remplir l'objet du présent Acte.

IV. Leurs Majestés la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, l'Empereur d'Autriche, l'Empereur des Français, Son Altesse Royale le Prince Régent de Prusse, et Sa Majesté

l'Empereur de Toutes les Russies, promettent d'entretenir les forces navales suffisantes pour concourir au succès des efforts communs par le rétablissement de la tranquillité sur le littoral de la Syrie.

V. Les Hautes Parties, convaincues que ce délai sera suffisant pour atteindre le but de pacification qu'elles ont en vue, fixent à 6 mois la durée de l'occupation des troupes Européennes en Syrie.

VI. La Sublime Porte s'engage à faciliter, autant qu'il dépendra d'elle, la subsistance et l'approvisionnement du corps expéditionnaire.

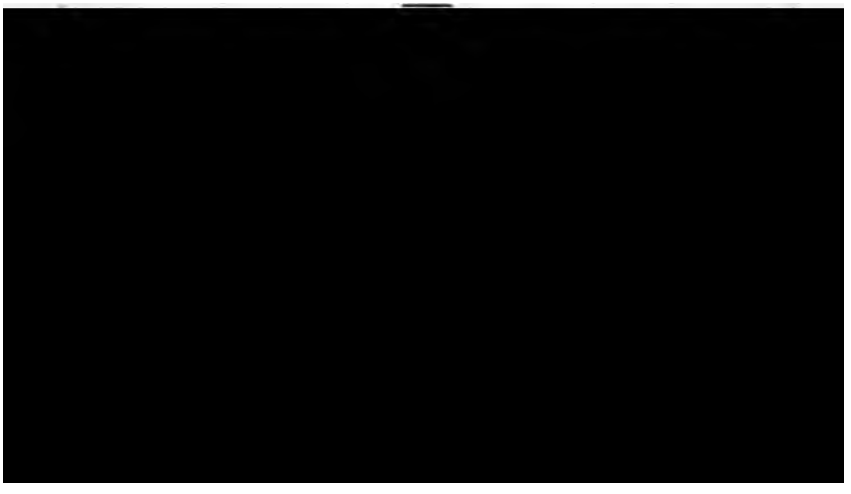
VII. La présente Convention sera ratifiée, et les ratifications en seront échangées à Paris, dans le délai de 5 semaines, ou plus tôt si faire se peut.

En foi de quoi, les Plénipotentiaires respectifs l'ont signée et y ont apposé le sceau de leurs armes.

Fait à Paris, le 5 Septembre, 1860.

(L.S.) COWLEY.
(L.S.) METTERNICH.
(L.S.) E. THOUVENEL.
(L.S.) REUSS.
(L.S.) KISSELEFF.
(L.S.) AHMED VEFYK.

PROTOCOLS of Conference between Great Britain, Austria, France, Prussia, Russia, and Turkey, respecting Measures to be taken for the Pacification of Syria.—Signed at Paris, August 3, 1860.



de Leurs Souverains, mais que les stipulations de ce Protocole entreront immédiatement en vigueur.

M. le Chargé d'Affaires de Prusse toutefois fait observer que la distribution actuelle des bâtiments de guerre Prussiens peut ne pas permettre à son Gouvernement de co-opérer dès à présent à l'exécution de l'Article IV.

Fait à Paris, le 3 Août, 1860, en 6 expéditions.

(L.S.) COWLEY.
(L.S.) METTERNICH.
(L.S.) THOUVENEL.
(L.S.) REUSS.
(L.S.) KISSELEFF.
(L.S.) AHMED VEFYK.

Les Plénipotentiaires de la Grande Bretagne, de l'Autriche, de la France, de la Prusse, de la Russie, et de la Turquie, désirant établir, conformément aux intentions de leurs Cours respectives, le véritable caractère du concours prêté à la Sublime Porte, aux termes du Protocole signé ce même jour, les sentiments qui leur ont dicté les clauses de cet Acte, et leur entier désintéressement, déclarent de la manière la plus formelle que les Puissances Contractantes n'entendent poursuivre, ni ne poursuivront, dans l'exécution de leurs engagements, aucun avantage territorial, aucune influence exclusive, ni aucune concession touchant le commerce de leurs sujets, et qui ne pourrait être accordée aux sujets de toutes les autres nations.

Néanmoins, ils ne peuvent s'empêcher, en rappelant ici les Actes émanés de Sa Majesté le Sultan, dont l'Article IX du Traité du 30 Mars, 1856, a constaté la haute valeur, d'exprimer le prix que leurs Cours respectives attachent à ce que, conformément aux promesses solennelles de la Sublime Porte, il soit adopté des mesures administratives sérieuses pour l'amélioration du sort des populations Chrétiennes de tout rite dans l'Empire Ottoman.

Le Plénipotentiaire de Turquie prend acte de cette déclaration des Représentants des Hautes Puissances, et se charge de la transmettre à sa Cour, en faisant observer que la Sublime Porte a employé, et continuera à employer, ses efforts dans le sens du vœu exprimé ci-dessus.

Fait à Paris, le 3 Août, 1860, en 6 expéditions.

(L.S.) COWLEY.
(L.S.) METTERNICH.
(L.S.) THOUVENEL.
(L.S.) REUSS.
(L.S.) KISSELEFF.
(L.S.) AHMED VEFYK.

*CONVENTION of Friendship, between Great Britain and China.—Signed at Pekin, October 24, 1860.**

HER Majesty the Queen of Great Britain and Ireland, and His Imperial Majesty the Emperor of China, being alike desirous to bring to an end the misunderstanding at present existing between their respective Governments, and to secure their relations against further interruption, have for this purpose appointed Plenipotentiaries, that is to say:

Her Majesty the Queen of Great Britain and Ireland, the Earl of Elgin and Kincardine;

And His Imperial Majesty the Emperor of China, His Imperial Highness the Prince of Kung;

Who, having met and communicated to each other their full powers, and finding these to be in proper form, have agreed upon the following Convention, in 9 Articles:

ART. I. A breach of friendly relations having been occasioned by the act of the garrison of Ta-ku, which obstructed Her Britannic Majesty's Representative when on his way to Peking for the purpose of exchanging the ratifications of the Treaty of Peace concluded at Tien-tsin in the month of June, 1858, His Imperial Majesty the Emperor of China expresses his deep regret at the misunderstanding so occasioned.

II. It is further expressly declared, that the arrangement entered into at Shanghai in the month of October, 1858, between Her Britannic Majesty's Ambassador the Earl of Elgin and Kincardine, and His Imperial Majesty's Commissioners Kweiliang and Hwashana, regarding the residence of Her Britannic Majesty's Representative in China, is hereby cancelled; and that, in accordance



at the ports open to foreign trade, in quarterly payments, which shall consist of one-fifth of the gross revenue from Customs there collected. The first of the said payments being due on the 31st day of December, 1860, for the quarter terminating on that day.

It is further agreed that these moneys shall be paid into the hands of an officer whom Her Britannic Majesty's Representative shall specially appoint to receive them, and that the accuracy of the amounts shall, before payment, be duly ascertained by British and Chinese officers appointed to discharge this duty.

In order to prevent future discussion, it is moreover declared, that of the 8,000,000 of taels herein guaranteed, 2,000,000 will be appropriated to the indemnification of the British mercantile community at Canton, for losses sustained by them, and the remaining 6,000,000 to the liquidation of war expenses.

IV. It is agreed, that on the day on which this Convention is signed, His Imperial Majesty the Emperor of China shall open the port of Tien-tsin to trade, and that it shall be thereafter competent to British subjects to reside and trade there under the same conditions as at any other port of China by Treaty open to trade.

V. As soon as the ratifications of the Treaty of 1858 shall have been exchanged, His Imperial Majesty the Emperor of China will, by Decree, command the high authorities of every province to proclaim throughout their jurisdictions, that Chinese choosing to take service in the British colonies, or other parts beyond sea, are at perfect liberty to enter into engagements with British subjects for that purpose, and to ship themselves and their families on board any British vessel at any of the open ports of China; also that the high authorities aforesaid shall, in concert with Her Britannic Majesty's Representative in China, frame such regulations for the protection of Chinese, emigrating, as above, as the circumstances of the different open ports may demand.

VI. With a view to the maintenance of law and order in and about the harbour of Hong Kong, His Imperial Majesty the Emperor of China agrees to cede to Her Majesty the Queen of Great Britain and Ireland, and to her heirs and successors, to have and to hold as a dependency of Her Britannic Majesty's colony of Hong Kong, that portion of the township of Cowloon, in the province of Kwang-tung, of which a lease was granted in perpetuity to Harry Smith Parkes, Esquire, Companion of the Bath, a member of the Allied Commission at Canton, on behalf of Her Britannic Majesty's Government, by Lan Tsung Kwang, Governor-General of the Two Kwang.

It is further declared that the lease in question is hereby cancelled; that the claims of any Chinese to property on the said portion of Cowloon shall be duly investigated by a Mixed Commission

of British and Chinese officers; and that compensation shall be awarded by the British Government to any Chinese whose claim shall be by the said Commission established, should his removal be deemed necessary by the British Government.

VII. It is agreed that the provisions of the Treaty of 1858, except in so far as these are modified by the present Convention, shall, without delay, come into operation as soon as the ratifications of the Treaty aforesaid shall have been exchanged.

It is further agreed that no separate ratification of the present Convention shall be necessary, but that it shall take effect from the date of its signature, and be equally binding with the Treaty above mentioned on the High Contracting Parties.

VIII. It is agreed that as soon as the ratifications of the Treaty of the year 1858 shall have been exchanged, His Imperial Majesty the Emperor of China shall, by Decree, command the high authorities in the capital and in the provinces to print and publish the aforesaid Treaty and the present Convention, for general information.

IX. It is agreed that, as soon as this Convention shall have been signed, the ratifications of the Treaty of the year 1858 shall have been exchanged, and an Imperial Decree respecting the publication of the said Convention and Treaty shall have been promulgated, as provided for by Article VIII of this Convention, Chusan shall be evacuated by Her Britannic Majesty's troops there stationed, and Her Britannic Majesty's force now before Peking shall commence its march towards the city of Tien-tsin, the forts of Ta-ku, the north coast of Shang-tung, and the city of Canton, at each or all of which places it shall be at the option of Her Majesty the Queen of Great Britain and Ireland to retain a force until the indemnity of 8,000,000 of taels, guaranteed in Article III, shall have been paid.



TREATY of Commerce, between Great Britain and France. Signed at Paris, January 23, 1860.

[Ratifications exchanged at Paris, February 4, 1860.]

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, being equally animated with the desire to draw closer the ties of friendship which unite their two people, and wishing to improve and extend the relations of commerce between their respective dominions, have resolved to conclude a Treaty for that purpose, and have named as their Plenipotentiaries, that is to say:

Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, et Sa Majesté l'Empereur des Français, également animés du désir de resserrer les liens d'amitié qui unissent les deux peuples, et voulant améliorer et étendre les relations commerciales entre leurs Etats respectifs, ont résolu de conclure un Traité à cet effet, et ont nommé pour leurs Plénipotentiaires, savoir:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Most Honourable Henry Richard Charles Earl Cowley, Viscount Dangan, Baron Cowley, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath, Her Majesty's Ambassador Extraordinary and Plenipotentiary to the Emperor of the French; and Richard Cobden, Esquire, a Member of the British Parliament;

Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, le Très Honorable Henry Richard Charles Comte Cowley, Vicomte Dangan, Baron Cowley, Pair du Royaume Uni, Membre du Conseil Privé de Sa Majesté Britannique, Chevalier Grand-Croix du Très Honorable Ordre du Bain, Ambassadeur Extraordinaire et Plénipotentiaire de Sa dite Majesté près Sa Majesté l'Empereur des Français; et M. Richard Cobden, Ecuyer, Membre du Parlement Britannique;

His Majesty the Emperor of the French, M. Baroche, Grand Cross of the Imperial Order of the Legion of Honour, &c., a Member of his Privy Council, President of his Council of State, provisionally charged with the Department of Foreign Affairs;

Sa Majesté l'Empereur des Français, M. Baroche, Grand-Croix de son Ordre Impérial de la Légion d'Honneur, &c., Membre de son Conseil Privé, Président de son Conseil d'Etat, chargé par intérim du Ministère des Affaires Etrangères; et M.

and M. Rouher, Grand Officer of the Imperial Order of the Legion of Honour, &c., Senator, his Minister and Secretary of State for the Department of Agriculture, Commerce, and Public Works;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ART. I. His Majesty the Emperor of the French engages that on the following articles of British production and manufacture, imported from the United Kingdom into France, the duties shall in no case exceed 30 per cent. ad valorem, the two additional decimes included.

The articles are as follows:

Refined sugar;
Turmeric in powder;
Rock crystal worked;
Iron forged in lumps or prisms;

Rouher, Grand Officier de son Ordre Impérial de la Légion d'Honneur, &c., Sénateur, son Ministre et Secrétaire d'Etat au Département de l'Agriculture, du Commerce, et des Travaux Publics;

Lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des Articles suivants:

ART. I. Sa Majesté l'Empereur des Français s'engage à admettre les objets ci-après dénommés, d'origine et de manufacture Britanniques, importés du Royaume Uni en France, moyennant un droit qui ne devra en aucun cas dépasser 30 pour cent de la valeur, les deux décimes additionnels compris.

Ces objets et marchandises sont les suivants:

Sucre raffiné;
Curcuma en poudre;
Cristal de roche ouvré;
Fer forgé en massiaux ou prismes;



Worsted and woollen yarn of every description;

Yarns of flax and hemp;

Yarns of hair, enumerated or non-enumerated;

Cotton manufactures;

Horse-hair manufactures, enumerated or non-enumerated;

Worsted and woollen manufactures, enumerated or non-enumerated;

Cloth list;

Manufactures of hair;

Silk manufactures;

Manufactures of waste and floss-silk;

Manufactures of bark and all other vegetable fibres, enumerated or non-enumerated;

Manufactures of flax and hemp;

Mixed manufactures of every description;

Hosiery;

Haberdashery, and small wares;

Manufactures of caoutchouc and gutta-percha, pure or mixed;

Articles of clothing, wholly or in part made up;

Prepared skins;

Articles of every sort manufactured from leather or skins, included or not under the denomination of small wares, fine or common;

Plated articles of every description;

Cutlery;

Metal wares, whether enumerated or not;

Pig and cast iron of every description, without distinction of weight;

Fils de laine de toute sorte;

Fils de lin et de chanvre;

Fils de poils, spécialement dénommés ou non;

Tissus de coton;

Tissus de crin, spécialement dénommés ou non;

Tissus de laine, dénommés ou non;

Lisières en drap;

Tissus de poils:

Tissus de soie;

Tissus de bourre de soie, fleuret;

Tissus d'écorce d'arbres et de tous autres végétaux filamenteux, dénommés ou non;

Tissus de lin et de chanvre;

Tissus mélangés de toute sorte;

Bonneterie;

Passementerie;

Mercerie;

Tissus de caoutchouc ou de gutta-percha, purs ou mélangés;

Habillements ou vêtements confectionnés;

Peaux préparées;

Ouvrages en peaux ou en cuir, compris ou non sous la dénomination de mercerie commune ou fine;

Plaqués de toute sorte;

Coutellerie;

Ouvrages en métaux, dénommés ou non;

Fonte de toute espèce, sans distinction de poids;

Bar and wrought iron, with the exception of the kinds specified in Article XVII;

Steel;

Machinery, tools, and mechanical instruments of every description;

Carriages on springs, lined and painted;

Cabinet ware, carved work, and turnery of every description; worked ivory and wood;

Brandies and spirits, including those not distilled from wine, cherries, molasses, or rice:

Ships and boats;

With respect to refined sugar and chemical productions of which salt is the basis, the excise or inland duties shall be added to the amount of the above specified duties.

II. His Imperial Majesty engages to reduce the import duties in France on British coal and coke, to the amount of 15 centimes for the 100 kilogrammes, with the addition of the 2 decimes.

Fers, sauf l'exception prévue par l'Article XVII ci-après;

Aciers;

Machines, outils, et mécaniques de toute sorte;

Voitures suspendues, garnies ou peintes;

Tabletterie et ouvrages en ivoire ou en bois;

Eaux-de-vie, même autres que de vin, de cerise, de mélasse, ou de riz;

Bâtiments de mer et embarcations;

A l'égard du sucre raffiné et des produits chimiques dérivés du sel, on ajoutera aux droits ci-dessus fixés, le montant des impôts qui grèvent ces produits à l'intérieur.

II. Sa Majesté l'Empereur s'engage à réduire les droits d'importation en France sur la houille et le coke Britannique, au chiffre de 15 centimes les 100 kilogrammes, plus les 2 décimes.



which duties they shall not interfere.

IV. The duties *ad valorem* stipulated in the present Treaty shall be calculated on the value at the place of production or fabrication of the object imported, with the addition of the cost of transport, insurance and commission, necessary for the importation into France as far as the port of discharge.

For the levying of these duties, the importer shall make a written declaration at the Custom-House, stating the value and description of the goods imported. If the Custom-House authorities shall be of opinion that the declared value is insufficient, they shall be at *liberty* to take the goods on paying to the importer the price declared, with an addition of 5 per cent.

This payment, together with the restitution of any duty which may have been levied upon such goods, shall be made within the 15 days following the declaration.

V. Her Britannic Majesty engages to recommend to Parliament to enable her to abolish the duties of importation on the following articles:

Sulphuric acid, and other mineral acids;

Agates and cornelians, set;

Lucifers of every description;

Percussion caps;

Arms of every description;

Jewels, set;

Toys;

IV. Les droits *ad valorem* stipulés par le présent Traité seront calculés sur la valeur au lieu d'origine ou de fabrication de l'objet importé, augmentés des frais de transport, d'assurance, et de commission nécessaires pour l'importation en France, jusques au port de débarquement.

Pour la perception de ces droits, l'importateur fera au Bureau de la Douane une déclaration écrite, constatant la valeur et la qualité des marchandises importées. Si l'Administration de la Douane juge insuffisante la valeur déclarée, elle aura le droit de retenir les marchandises en payant à l'importateur le prix déclaré par lui, augmenté de 5 pour cent.

Ce paiement devra être effectué dans les 15 jours qui suivront la déclaration, avec restitution des droits, s'il en avait été perçu.

V. Sa Majesté Britannique s'engage à recourir à son Parlement pour être mise à même d'abolir les droits d'importation sur les articles suivants:

Acide sulfurique, et autres acides minéraux;

Agates et cornalines, montées;

Allumettes chimiques de toutes sortes;

Amorces ou capsules de poudre fulminante;

Armes de toutes sortes;

Bijouterie;

Bimbeloterie;

Corks;	Bouchons;
Brocade of gold and silver;	Brocards d'or et d'argent;
Embroideries and needle-work of every description;	Broderies ou ouvrages à l'aiguille, de toute espèce;
Brass and bronze manufactures, and bronzed metal;	Ouvrages en bronze ou métal bronzé ou verni;
Canes, walking canes or sticks, umbrella or parasol sticks, mounted, painted, or otherwise ornamented;	Cannes pour ombrelles, parapluies ou autres, montées, peintes, ou autrement ornées;
Hats, of whatever substance they may be made;	Chapeaux, de quelque matière qu'ils soient composés;
Gloves, stockings, socks, and other articles of cotton or linen, wholly or in part made up;	Gants, bas, chaussettes, et autres articles confectionnés en tout ou en partie de coton ou de fil de lin;
Leather manufactures;	Cuir ouvré;
Lace manufactured of cotton, wool, silk, or linen;	Dentelles de coton, laine, soie, ou lin;
Manufactures of iron and steel;	Fers et aciers ouvrés;
Machinery and mechanical instruments;	Machines et mécaniques;
Tools and other instruments;	Outils et instruments;
Cutlery, and other articles of steel, iron, or cast iron;	Coutellerie et autres articles en acier, fer, ou fonte moulée;
Fancy ornaments of steel and iron;	Articles d'ornement ou de fantaisie en acier ou en fer;
Articles covered with copper by galvanic process;	Ouvrages chargés de cuivre par un procédé galvanique;

[redacted]

Perfumery; cabinet ware, carved work, and turnery of every description;

Clocks, watches, and opera glasses;

Manufactures of lead, enumerated or not enumerated;

Feathers, dressed or not;

Goats' and other hair manufactures;

China and porcelain ware;

Stone and earthenware;

Grapes;

Sulphate of quinine;

Salts of morphine;

Manufactures of silk, or of silk mixed with any other materials, of whatever description they may be;

Articles not enumerated in the tariff, now paying an *ad valorem* duty of 10 per cent.; subject however to such measures of precaution as the protection of the public revenue may require, against the introduction of materials liable to Custom or Excise duties, in the composition of articles admitted duty free in virtue of the present paragraph.

VI. Her Britannic Majesty engages also to propose to Parliament that the duties on the importation of French wine be at once reduced to a rate not exceeding 3*s.* a gallon, and that from the 1st April, 1861, the duties on importation shall be regulated as follows:

1. On wine containing less than 15 degrees of proof spirit verified by Sykes's hydrometer,

Parfumerie; tabletterie;

Pendules, montres, lorgnettes;

Plomb ouvré, dénommé ou non dénommé;

Plumes apprêtées ou non;

Tissus de poil de chèvre ou autres;

Porcelaine;

Poterie;

Raisins frais;

Sulfate de quinine;

Sels de morphine;

Tissus de soie pure ou mélangée, de quelque nature qu'ils soient;

Articles non dénommés au tarif, actuellement grevés d'un droit de 10 pour cent *ad valorem;* sauf toutefois les mesures de précaution que pourrait exiger la protection du revenu public contre l'introduction de matières assujetties à des droits de douane ou d'accise, et qui entreraient dans la composition des articles admis en franchise en vertu du présent paragraphe.

VI. Sa Majesté Britannique s'engage aussi à proposer au Parlement de réduire immédiatement les droits à l'importation des vins Français, à un taux qui ne dépassera pas 3*s.* par gallon jusqu'au 1er Avril, 1861. A partir de cette dernière époque, les droits d'importation seront réglés de la manière suivante:

1. Sur les vins qui contiennent moins de 15 degrés d'esprit, type d'Angleterre, vérifiés par l'hydro-

the duty shall not exceed 1*s.* a gallon.

2. On wine containing from 15 to 26 degrees, the duty shall not exceed 1*s.* 6*d.* a gallon.

3. On wine containing from 26 to 40 degrees, the duty shall not exceed 2*s.* a gallon.

4. On wine in bottles, the duty shall not exceed 2*s.* a gallon.

5. Wine shall not be imported at any other ports than those which shall be named for that purpose before the present Treaty shall come into force; Her Britannic Majesty reserving to herself the right of substituting other ports for those which shall have been originally named, or of increasing the number of them.

The duty fixed upon the importation of wine at ports other than those named, shall be 2*s.* a gallon.

6. Her Britannic Majesty reserves to herself the power, notwithstanding the provisions

mètre de Sykes, le droit ne dépassera pas 1*s.* par gallon

2. Sur les vins qui contiennent de 15 à 26 degrés, le droit ne dépassera pas 1*s.* et 6*d.* par gallon.

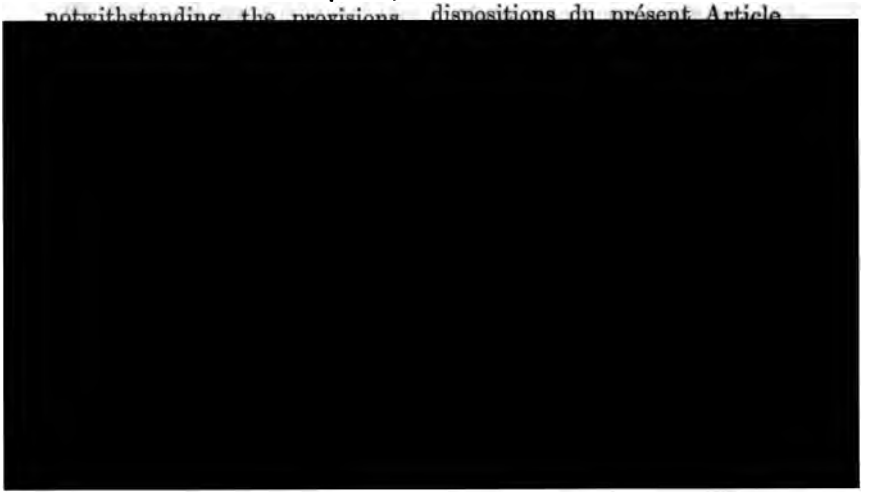
3. Sur les vins qui contiennent de 26 à 40 degrés, le droit ne dépassera pas 2*s.* par gallon.

4. Sur les vins en bouteilles, le droit ne dépassera pas 2*s.* par gallon.

5. L'importation des vins ne devra avoir lieu que par les ports qui seront désignés à cet effet avant la mise à exécution du présent Traité; Sa Majesté Britannique se réservant de substituer d'autres ports à ceux qui auront été primitivement désignés, ou d'en augmenter le nombre.

Le droit d'importation par les ports non désignés sera de 2*s.* par gallon.

6. Sa Majesté Britannique se réserve le droit, nonobstant les dispositions du présent Article



time the duty chargeable upon the importation of such merchandize may be augmented by such a sum as shall be an equivalent for the expenses which the system of excise may entail upon the British producer.

VIII.* In accordance with the preceding Article, Her Britannic Majesty undertakes to recommend to Parliament the admission into the United Kingdom of brandies and spirits imported from France, at a duty exactly equal to the excise duty levied upon home-made spirits, with the addition of a surtax of 2*d.* a gallon, which will make the actual duty payable on French brandies and spirits 8*s.* 2*d.* the gallon.

Her Britannic Majesty also undertakes to recommend to Parliament the admission of rum and tafia imported from the French Colonies, at the same duty which is or shall be levied on these same articles imported from the British Colonies.

Her Britannic Majesty undertakes to recommend to Parliament the admission of paper-hangings imported from France, at a duty equal to the excise tax, that is to say, at 14*s.* per hundredweight; and cardboard of the same origin, at a duty which shall not exceed 15*s.* per hundredweight.

Her Britannic Majesty further undertakes to recommend to Parliament the admission of gold and silver plate imported from France, at a duty equal to the

droits à l'importation pourront être augmentés des sommes que représenteraient les frais occasionnés aux producteurs Britanniques par le système de l'accise.

VIII.* En conséquence de l'Article précédent, Sa Majesté Britannique s'engage à recommander au Parlement l'admission dans le Royaume Uni des eaux-de-vie et esprits provenant de France, à des droits exactement identiques à ceux qui grévent dans le Royaume Uni les esprits de fabrication nationale, sauf une surtaxe de 2*d.* par gallon, ce qui fait pour le droit à percevoir actuellement sur les eaux-de-vie et esprits provenant de France, 8*s.* 2*d.* le gallon.

Sa Majesté Britannique s'engage aussi à recommander au Parlement l'admission des rhums et tafias provenant des Colonies Françaises aux mêmes droits que ceux qui grèvent ou grèveraient ces produits provenant des Colonies Britanniques.

Sa Majesté Britannique s'engage à recommander au Parlement l'admission des papiers de tenture provenant de France, à des droits identiques à ceux d'accise, c'est à dire, à 14*s.* le quintal; et les cartons de même provenance à un droit qui ne pourra excéder 15*s.* le quintal.

Sa Majesté Britannique s'engage aussi à recommander au Parlement l'admission de l'orfévrerie provenant de France, à des droits identiques à ceux de

* See Additional Article, February 25, 1860. Page 27.

stamp or excise duty which is charged on British gold and silver plate.

IX. It is understood between the two High Contracting Powers, that if one of them thinks it necessary to establish an excise tax or inland duty upon any article of home production or manufacture which is comprised among the preceding enumerated articles, the foreign imported article of the same description may be immediately liable to an equivalent duty on importation.

It is equally understood between the High Contracting Powers, that in case the British Government should deem it necessary to increase the excise duties levied upon home-made spirits, the duties on the importation of wines may be modified in the following manner:

For every increase of 1*s.* per gallon of spirits on the excise duty, there may be, on wines which pay 1*s.* 6*d.* duty an augmentation not exceeding 1½*d.* per

marque ou d'accise qui grèvent l'orfévrerie Britannique.

IX. Il est entendu entre les Hautes Puissances Contractantes, que si l'une d'elles juge nécessaire d'établir un droit d'accise ou impôt sur un article de production ou de fabrication nationale qui serait compris dans les énumérations qui précèdent, l'article similaire étranger pourra être immédiatement grevé à l'importation d'un droit égal.

Il est également entendu entre les Hautes Puissances Contractantes, que dans le cas où le Gouvernement Britannique jugera nécessaire d'élever les droits d'accise qui grèvent les esprits de fabrication nationale, les droits d'importation sur les vins pourront être modifiés de la manière suivante:

Chaque augmentation de 1*s.* par gallon d'esprit sur le droit d'accise, pourra donner lieu, sur les vins payant 1*s.* 6*d.*, à une augmentation de droit qui ne



in the ports, basins, docks, roadsteads, harbours, and rivers of the two countries, the privileges, favours, or advantages which are or shall be granted to national vessels generally, or to the goods imported or exported in them, shall be equally granted to the vessels of the other country, and to the goods imported or exported in them.

XI. The two High Contracting Powers engage not to prohibit the exportation of coal, and to levy no duty upon such exportation.

XII. The subjects of one of two High Contracting Powers shall, in the dominions of the other, enjoy the same protection as native subjects in regard to the rights of property in trademarks and in patterns of every description.

XIII. The *ad valorem* duties established within the limits fixed by the preceding Articles shall be converted into specific duties by a Supplementary Convention, which shall be concluded before the 1st of July, 1860. The medium prices during the 6 months preceding the date of the present Treaty shall be taken as the bases for this conversion.

Duties shall, however, be levied in conformity with the bases above established:

1.* In the event of this Supplementary Convention not having come into force before the expiration of the period fixed for

les frais dans les ports, les bassins, les docks, les rades, les havres, et les rivières des deux pays, les priviléges, faveurs, ou avantages qui sont ou seront accordés aux bâtiments nationaux sans exception, ou à la marchandise qu'ils exportent ou importent, le seront également aux bâtiments de l'autre pays et aux marchandises qu'ils importent ou exportent.

XI. Les deux Hautes Puissances Contractantes prennent l'engagement de ne pas interdire l'exportation de la houille, et de n'établir aucun droit sur cette exportation.

XII. Les sujets d'une des Hautes Puissances Contractantes jouiront, dans les Etats de l'autre, de la même protection que les nationaux pour tout ce qui concerne la propriété des marques de commerce et des dessins de fabrique de toute espèce.

XIII. Les droits *ad valorem* établis dans la limite fixée par les Articles précédents seront convertis en droits spécifiques par une Convention Complémentaire, qui devra intervenir avant le 1er Juillet, 1860. On prendra pour base de cette conversion les prix moyens pendant les 6 mois qui ont précédé la date du présent Traité.

Toutefois, la perception des droits sera faite conformément aux bases ci-dessus établis:

1.* Dans le cas où cette Convention Complémentaire ne serait pas intervenue avant l'expiration des délais fixés pour l'exécution

* See Additional Article, June 27, 1860. Page 29.

the execution by France of the present Treaty;

2. Upon those articles the specific duties on which shall not have been settled by common consent.

XIV. The present Treaty shall be binding for the United Kingdom of Great Britain and Ireland, so soon as the necessary legislative sanction shall have been given by Parliament, with the reserve made in Article VI respecting wines.

Further, Her Britannic Majesty reserves to herself the power of retaining, upon special grounds, and by way of exception, during a period not exceeding two years, dating from the 1st of April, 1860, half of the duties on those articles, the free admission of which is stipulated by the present Treaty.

This reserve, however, does not apply to articles of silk manufacture.

XV. The engagements contracted by His Majesty the Emperor of the French shall be ful-

par la France du présent Traité;

2. Pour les articles dont les droits spécifiques n'auraient pu être réglés d'un commun accord.

XIV. Le présent Traité sera exécutoire pour le Royaume Uni de la Grande Bretagne et d'Irlande, aussitôt que la sanction législative nécessaire aura été donnée par le Parlement, sous la réserve faite, en ce qui concerne les vins, par l'Article VI.

Sa Majesté Britannique se réserve, en outre, la faculté de conserver, pour des motifs spéciaux et par exception, pendant un temps qui ne pourra excéder deux années à partir du 1er Avril, 1860, la moitié des droits qui grèvent actuellement les articles dont l'admission en franchise est stipulée par le présent Traité.

Cette réserve n'est pas applicable aux soieries.

XV. Les engagements contractés par Sa Majesté l'Empereur des Français seront exécutoires,



period which shall not exceed the 31st December, 1860.

4. For yarns and manufactures in flax and hemp, from the 1st June, 1861.

5. And for all other articles from the 1st October, 1861.

XVI. His Majesty the Emperor of the French engages that the *ad valorem* duties payable on the importation into France of merchandize of British production and manufacture, shall not exceed a maximum of 25 per cent. from the 1st of October, 1864.

XVII. It is understood between the two High Contracting Powers, as an element of the conversion of the *ad valorem* duties into specific duties, that for the kinds of bar iron which are at present subjected on importation into France to a duty of 10 francs, not including the 2 additional decimes, the duty shall be 7 francs on every 100 kilogrammes until the 1st of October, 1864, and 6 francs from that period, including in both cases the 2 additional decimes.

XVIII. The arrangements of the present Treaty of Commerce are applicable to Algeria, both for the exportation of her produce and for the importation of British goods.

XIX. Each of the two High Contracting Powers engages to confer on the other any favour, privilege, or reduction in the tariff of duties of importation on the articles mentioned in the present Treaty, which the said Power may concede to any third Power. They further engage not

délai qui ne dépassera pas le 31 Décembre, 1860.

4. Pour les fils et tissus de lin et de chanvre, à partir du 1er Juin, 1861.

5. Pour tous les autres articles, à partir du 1er Octobre, 1861.

XVI. Sa Majesté l'Empereur des Français s'engage à ce que les droits *ad valorem* établis à l'importation en France des marchandises d'origine et de manufacture Britanniques aient pour maximum la limite de 25 pour cent à partir du 1er Octobre, 1864.

XVII. Il demeure entendu entre les deux Hautes Puissances Contractantes, comme élément de la conversion des droits *ad valorem* en droits spécifiques, que pour les fers actuellement grevés à l'importation en France d'un droit de 10 francs non compris le double décime additionnel, le droit sera de 7 francs pour 100 kilogrammes jusqu'au 1er Octobre, 1864, et de 6 francs à partir de cette époque, les 2 décimes additionnels compris dans les deux cas.

XVIII. Les dispositions du présent Traité de Commerce sont applicables à l'Algérie, tant pour l'exportation de ses produits que pour l'importation des marchandises Britanniques.

XIX. Chacune des deux Hautes Puissances Contractantes s'engage à faire profiter l'autre Puissance de toute faveur, de tout privilége ou abaissement dans les tarifs des droits à l'importation des articles mentionnés dans le présent Traité, que l'une d'elles pourrait accorder à une tierce

to enforce one against the other any prohibition of importation or exportation which shall not at the same time be applicable to all other nations.

XX. The present Treaty shall not be valid unless Her Britannic Majesty shall be authorized by the assent of her Parliament to execute the engagements contracted by her in the Articles of the present Treaty.

XXI. The present Treaty shall remain in force for the space of 10 years, to date from the day of the exchange of ratifications; and in case neither of the High Contracting Powers shall have notified to the other, 12 months before the expiration of the said period of 10 years, the intention to put an end to its operation, the Treaty shall continue in force for another year, and so on from year to year, until the expiration of a year, counting from the day on which one or other of the High Contracting Powers shall have announced its intention to

Puissance. Elles s'engagent, en outre, à ne prononcer l'une envers l'autre aucune prohibition d'importation ou d'exportation, qui ne soit en même temps applicable aux autres nations.

XX. Le présent Traité ne sera valable qu'autant que Sa Majesté Britannique aura été autorisée par l'assentiment de son Parlement à exécuter les engagements contractés par elle dans les Articles qui précèdent.

XXI. Le présent Traité restera en vigueur pendant 10 années à partir du jour de l'échange de ses ratifications; et dans le cas où aucune des deux Hautes Puissances Contractantes n'aurait notifié, 12 mois avant l'expiration de la période de 10 années, son intention d'en faire cesser les effets, le Traité continuera à rester en vigueur encore une année, et ainsi de suite, d'année en année, jusqu'à l'expiration d'une année à partir du jour où l'une ou l'autre des Hautes Puissances Contractantes l'aura dénoncé.



Plenipotentiaries have signed it, and affixed thereto the seal of their arms.

Done in duplicate, at Paris, the 23rd day of January, in the year of our Lord 1860.

tiaires respectifs l'ont signé, et y ont apposé le cachet de leurs armes.

Fait en double expédition à Paris, le 23me jour de Janvier, de l'an de grâce 1860.

(L.S.) COWLEY.
(L.S.) RICHARD COBDEN.
(L.S.) V. BAROCHE.
(L.S.) F. ROUHER.

ADDITIONAL ARTICLE to the Treaty of Commerce concluded at Paris, January 23, 1860, between Great Britain and France.—Signed at Paris, February 25, 1860.

[Ratifications exchanged at Paris, February 28, 1860.]

By Article VIII of the Treaty of Commerce between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, signed at Paris on the 23rd of January last,* Her Britannic Majesty undertook to recommend to Parliament the admission into the United Kingdom of brandies and spirits imported from France, at a duty exactly equal to the excise duty levied upon home-made spirits, with the addition of a surtax of 2*d.* per gallon, which would make the actual duty payable on French brandies and spirits 8*s.* 2*d.* a gallon.

Since the ratification of the said Treaty, the Government of Her Britannic Majesty have ascertained that the surtax of 2*d.* a gallon is not sufficient

Par l'Article VIII du Traité de Commerce entre Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, et Sa Majesté l'Empereur des Français, signé à Paris, le 23 Janvier dernier,* Sa Majesté Britannique s'est engagée à recommander au Parlement l'admission dans le Royaume Uni, des eaux-de-vie et esprits importés de France, à un droit exactement égal au droit d'accise perçu sur les esprits de fabrication indigène, avec l'addition d'une surtaxe de 2*d.* par gallon, ce qui mettrait le droit actuel à payer pour les eaux-de-vie et esprits de France à 8*s.* 2*d.* par gallon.

Depuis la ratification du dit Traité, le Gouvernement de Sa Majesté Britannique s'est assuré que la surtaxe de 2*d.* par gallon n'est pas suffisante pour contre-

* Page 21.

to countervail the charges with which, in consequence of the operation of the laws of Customs and Excise, home-made British spirits have now to contend; and that a surtax limited to the rate of 2*d.* a gallon would still leave home-made British spirits subject to a differential duty in favour of foreign brandies and spirits.

Consequently the Government of Her Britannic Majesty having represented these circumstances to the Government of His Majesty the Emperor of the French, and His Imperial Majesty having consented that the amount of the said surtax shall be increased, the two High Contracting Parties to the said Treaty of Commerce do, by the present Additional Article, agree that the amount of such surtax shall be 5*d.* a gallon; and Her Britannic Majesty engages to recommend to Parliament the admission into the United Kingdom of brandies and spirits imported from France at a duty exactly equal to the

balancer les charges que les lois de douane et d'accise font actuellement peser sur les esprits de fabrication Anglaise, et qu'une surtaxe limitée au taux de 2*d.* par gallon laisserait encore subsister sur les esprits de fabrication Anglaise un droit différentiel en faveur des eaux-de-vie et esprits étrangers.

En conséquence le Gouvernement de Sa Majesté Britannique ayant fait connaître ces circonstances au Gouvernement de Sa Majesté l'Empereur des Français, et Sa Majesté Impériale ayant consenti à ce que le montant de la dite surtaxe fut augmenté, les deux Hautes Parties Contractantes au dit Traité de Commerce sont convenues par le présent Article Additionnel, que le montant de cette surtaxe serait de 5*d.* par gallon; et Sa Majesté Britannique s'engage à recommander au Parlement l'admission dans le Royaume Uni des eaux-de-vie et esprits importés de France, à un droit exacte-



the same, and have affixed thereto the seals of their arms.

Done at Paris, this 25th day of February, in the year of our Lord 1860.

(L.S.) COWLEY.
(L.S.) I. BAROCHE.
(L.S.) E. ROUHER.

SECOND ADDITIONAL ARTICLE to the Treaty of Commerce concluded at Paris, January 23, 1860, between Great Britain and France.—Signed at Paris, June 27, 1860.

[Ratifications exchanged at Paris, July 1, 1860.]

It having been found impossible to conclude the negotiation of the arrangement which is to fix, according to paragraph 1 of Article XIII of the Treaty of Commerce concluded between Great Britain and France, the 23rd of January last,* the rate of the specific duties to be levied on British merchandize imported into France, within the period stipulated by the said Article, the High Contracting Parties have considered it advisable, in the interest of the respective commerce of the two countries, to make a fresh arrangement with a view to insure the gradual execution of the aforesaid Treaty within the periods fixed by the same.

In consequence whereof, the Undersigned, invested with full powers on the part of Her Majesty the Queen of the United

La négociation de l'arrangement destiné, aux termes du paragraphe 1er de l'Article XIII du Traité conclu entre la Grande Bretagne et la France le 23 Janvier, 1860,* à fixer le taux des droits spécifiques applicables aux produits Britanniques importés en France, n'ayant pu être achevée dans le terme énoncé par cet Article, les Hautes Parties Contractantes ont jugé convenable, dans l'intérêt du commerce respectif des deux pays, d'arrêter de nouvelles dispositions pour faciliter la mise en vigueur successive du Traité précité dans les limites de temps qu'il a déterminées.

En conséquence les Soussignés, munis à cet effet des pouvoirs de Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et

* Page 23.

Kingdom of Great Britain and Ireland, on one side, and of His Majesty the Emperor of the French, on the other, have agreed upon the following Articles :—

ART. I. Instead of a single Convention establishing the specific duties to be paid by British merchandize imported into France, 3 separate Conventions shall be successively concluded; the first of which shall comprise bar and pig iron, steel and worked metals, machines, tools and mechanical instruments of all sorts; the second, yarns and manufactures in flax and hemp; the third, all other articles of British production and manufacture enumerated in Article I of the Treaty of the 23rd of January.

II. These Conventions shall be negotiated, concluded, and ratified in such a manner as to come into force with respect to the articles to which they apply, at each of the periods fixed by Article XV of the Treaty of which they will form the com-

d'Irlande, d'une part, et de Sa Majesté l'Empereur des Français, d'autre part, sont convenus de ce qui suit :

ART. I. Au lieu d'une Convention unique pour fixer les droits spécifiques applicables aux produits Britanniques à leur importation en France, il sera conclu successivement 3 Conventions séparées embrassant, la première, les fers, les fontes, les aciers, et les ouvrages en métaux, machines, outils et mécaniques de toute espèce ; la seconde, les fils et tissus de lin et de chanvre ; et la troisième, tous les autres produits d'origine et de manufacture Britanniques énumérés dans l'Article Ier du Traité du 23 Janvier.

II. Ces Conventions seront négociées, conclues, et ratifiées de manière à entrer respectivement en vigueur, pour les produits auxquels elles s'appliqueront, à chacune des époques fixées par l'Article XV du Traité dont elles formeront le complé-



the same, and have affixed thereto the seal of their arms.

Done at Paris, this 27th day of June, in the year of our Lord 1860.

(L.S.) COWLEY.
(L.S.) E. THOUVENEL.

présent, et y ont apposé le sceau de leurs armes.

Fait à Paris, le 27 Juin, de l'an de grâce 1860.

CONVENTION between Great Britain and France, supplementary to the Treaty of Commerce of January 23, 1860, *with a Tariff annexed thereto.—Signed at Paris, October* 12, 1860.

[Ratifications exchanged at Paris, October 25, 1860.]

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, desiring to ensure the execution of the Treaty of Commerce concluded between them on the 23rd of January, 1860,* within the limits and in the manner contemplated by the Second Additional Article to that Treaty, have resolved to negotiate a first complementary arrangement in order to determine the specific or *ad valorem* duties which shall be imposed upon the goods of British origin and manufacture enumerated in the said Treaty, when imported into France; and they have for that purpose named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Henry Richard

Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, et Sa Majesté l'Empereur des Français, désirant assurer l'exécution du Traité de Commerce conclu entre elles le 23 Janvier, 1860,* dans les limites et de la manière prévues par le deuxième Article Additionnel à ce même Traité, ont résolu de négocier un premier arrangement complémentaire pour déterminer les droits spécifiques ou à la valeur qui devront grever, à leur importation en France, les marchandises d'origine ou de manufacture Britanniques énumérées dans le dit Traité, et ont, à cet effet, nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, le Très Honorable Henry Richard

* Page 13.

Charles, Earl Cowley, Viscount Dangan, Baron Cowley, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath, Her said Majesty's Ambassador Extraordinary and Plenipotentiary to His Majesty the Emperor of the French; and Richard Cobden, Esquire, a Member of the British Parliament;

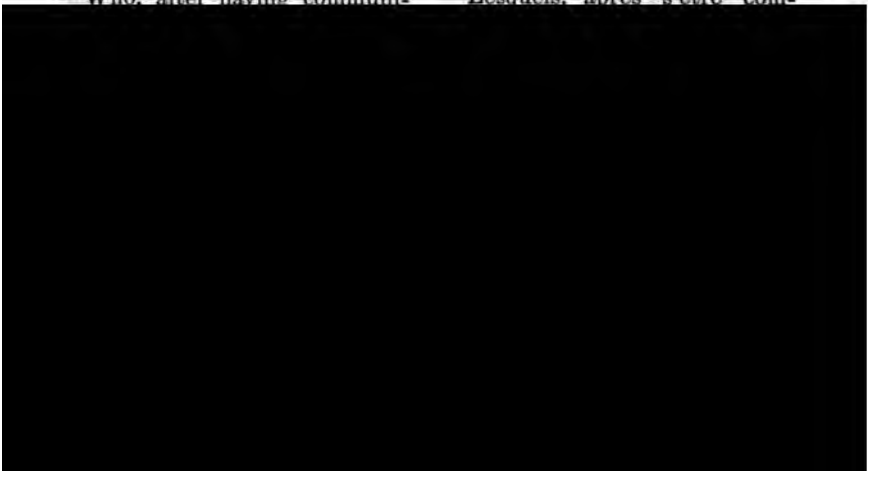
And His Majesty the Emperor of the French, M. Thouvenel, a Senator of the Empire, Grand Cross of His Imperial Majesty's Order of the Legion of Honour, &c., His Imperial Majesty's Minister and Secretary of State for Foreign Affairs; and M. Rouher, a Senator of the Empire, Grand Cross of His Imperial Majesty's Order of the Legion of Honour, &c., His Imperial Majesty's Minister and Secretary of State for Agriculture, Commerce, and Public Works;

Who, after having communi-

Charles, Comte Cowley, Vicomte Dangan, Baron Cowley, Pair du Royaume Uni, Membre du Très Honorable Conseil Privé de Sa Majesté Britannique, Chevalier Grand-Croix du Très Honorable Ordre du Bain, Ambassadeur Extraordinaire et Plénipotentiaire de Sa dite Majesté près Sa Majesté l'Empereur des Français; et M. Richard Cobden, Ecuyer, Membre du Parlement Britannique;

Et Sa Majesté l'Empereur des Français, M. Thouvenel, Sénateur de l'Empire, Grand-Croix de Son Ordre Impérial de la Légion d'Honneur, &c., Son Ministre Secrétaire d'Etat au Département des Affaires Etrangères; et M. Rouher, Sénateur de l'Empire, Grand-Croix de l'Ordre Impérial de la Légion d'Honneur, &c., Son Ministre Secrétaire d'Etat au Département de l'Agriculture, du Commerce, et des Travaux Publics;

Lesquels, après s'être com-



origin or manufacture, the importer must present at the French Custom-House either an official declaration made before a British magistrate exercising jurisdiction at the place of dispatch, or a certificate granted by the chief officer of the Customs at the port of embarkation, or a certificate granted by the Consuls or Consular Agents of France at the places of dispatch or at the ports of embarkation. The above-mentioned Consuls or Consular Agents of France shall legalize the signatures of the British authorities.

III. The importer of machines and mechanical instruments, complete or in detached pieces, of British origin or manufacture, shall be exempt from the obligation of producing at the French Customs any model or drawing of the imported article.

IV. The importer of any goods of British origin or manufacture taxed *ad valorem*, must attach to the declaration verifying the value of that article, and to the certificate of origin, an invoice emanating from the manufacturer or from the seller, which shall show the real price, and shall be *visé* by a Consul or Consular Agent of France in the United Kingdom.

V. When articles upon which an *ad valorem* duty is levied have been previously warehoused, the duty shall be levied according to the value of those articles at the time of their actual entry into France.

VI. The importer against

facture Britannique, l'importateur devra présenter à la Douane Française, soit une déclaration officielle faite devant un magistrat Britannique siégeant au lieu d'expédition, soit un certificat délivré par le chef du service des Douanes du port d'embarquement, soit un certificat délivré par les Consuls ou Agents Consulaires de France dans les lieux d'expédition ou dans les ports d'embarquement. Les Consuls ou Agents Consulaires de France sus-désignés légaliseront les signatures des autorités Britanniques.

III. L'importateur de machines et mécaniques, entières ou en pièces détachées, d'origine ou de manufacture Britannique, sera dispensé de l'obligation de produire à la Douane Française tout modèle ou dessin de l'objet importé.

IV. L'importateur d'une marchandise d'origine ou de manufacture Britannique taxée à la valeur devra joindre à la déclaration constatant la valeur de cette marchandise et au certificat d'origine, une facture indiquant le prix réel, émanant du fabricant ou du vendeur, qui sera visée par un Consul ou un Agent Consulaire de France dans le Royaume Uni.

V. Si les articles taxés à la valeur ont été préalablement mis en entrepôt, les droits seront perçus d'après la valeur de ces articles au moment de leur admission effective en France.

VI. L'importateur contre le-

whom the French Customs may desire to exercise the right of pre-emption stipulated in the Treaty of the 23rd of January, 1860, may, if he prefers to do so, demand a valuation of his goods by experts.

The same demand may be made by the French Customs when they may not think fit to have immediate recourse to pre-emption.

VII. If the result of such valuation by experts should prove that the goods have not a value of 5 per cent. above that which has been declared by the importer, the duty shall be levied upon the amount of the declaration.

If the proved value is 5 per cent. above the value declared, the French Customs shall be entitled, at their choice, either to exercise the right of pre-emption, or to levy the duty on the value determined by the experts.

This duty shall be increased by 50 per cent. as a fine if the

quel la Douane Française voudra exercer le droit de pré-emption stipulé par le Traité du 23 Janvier, 1860, pourra, s'il le préfère, demander l'estimation de sa marchandise par des experts.

La même faculté appartiendra à la Douane Française lorsqu'elle ne jugera pas convenable de recourir immédiatement à la pré-emption.

VII. Si l'expertise constate que la marchandise n'a pas une valeur de 5 pour cent supérieure à celle déclarée par l'importateur, le droit sera perçu sur le montant de la déclaration.

Si la valeur constatée est de 5 pour cent supérieure à celle déclarée, la Douane Française pourra à son choix exercer la pré-emption, ou percevoir le droit sur la valeur déterminée par les experts.

Ce droit sera augmenté de 50 pour cent à titre d'amende si

other by the local Chief of the French Customs service. If there be difference of opinion between them, or if at the time of appointing the experts the declarant shall require it, the experts shall choose an umpire. In default of agreement, this umpire shall be appointed by the President of the Tribunal of Commerce at the port of importation, or, in his default, by the President of the Tribunal of Commerce at the nearest place.

The decision of the arbitrators shall be given within the 15 days which follow their nomination.

IX. Independently of the duties of Customs, articles of goldsmith's work and of jewellery, of British manufacture in gold, silver, platina, or other metals, imported into France, shall be subject to the system of control established in that country for similar articles of domestic manufacture, and shall pay, if it becomes necessary, on the same basis as those, the duties of marking and guarantee.

X. The tariff annexed to the present Convention shall, independently of the articles already admissible under the Treaty of the 23rd of January last, be immediately applicable to refined sugars, to works in metal, to machines, to detached pieces of machines, to tools, and to mechanical instruments of every description.

XI. The present Convention shall have the same duration as the Treaty concluded between

local du Service des Douanes Françaises. En cas de partage, ou même au moment de la constitution de l'arbitrage, si le déclarant le requiert, les experts choisiront un tiers arbitre. S'il y a désaccord, celui-ci sera nommé par le Président du Tribunal de Commerce du port d'introduction, à défaut par le Président du Tribunal de Commerce du lieu le plus voisin.

La décision arbitrale devra être rendue dans les 15 jours qui suivront la constitution de l'arbitrage.

IX. Indépendamment des taxes de Douane, les articles d'orfévrerie et de bijouterie en or, argent, platine, ou autres métaux de manufacture Britannique importés en France, seront soumis au régime de contrôle établi dans ce pays pour les articles similaires de fabrication nationale, et payeront, s'il y a lieu, sur la même base que ceux-ci, les droits de marque et de garantie.

X. Le tarif annexé à la présente Convention sera immédiatement applicable, indépendamment des articles déjà admissibles en vertu du Traité du 23 Janvier dernier, aux sucres raffinés, aux ouvrages en métaux, machines, pièces détachées de machines, outils, et mécaniques de toute espèce.

XI. La présente Convention aura la même durée que le Traité conclu entre les Hautes Parties

the High Contracting Parties on the 23rd of January last, of which it is a complement.

XII. The present Convention shall be ratified, and the ratifications shall be exchanged at Paris within 15 days, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have

Contractantes le 23 Janvier dernier, dont elle est l'un des compléments.

XII. La présente Convention sera ratifiée, et les ratifications en seront échangées à Paris dans le délai de 15 jours, ou plus tôt si faire se peut.

En foi de quoi, les Plénipotentiaires respectifs l'ont signé,

TARIFF.

Description of Articles.	Rates of Import Duties.	
	1860.	1864.
METALS.	Fr. c.	Fr. c.
Iron:		
Ore of	Free	Free
Filings, slag and dross, from the forge		
Pig and fragments of old cast iron	2 50 " 100 kil.	2 " 00 100 kil.
Purified cast, called "mazée," and old broken wrought iron ..	3 25 „	2 75 „
Crude, in lumps or prisms, not freed from the dross	5 00 „	4 50 „
Bars, square, round, or flat; rails of all shapes and dimensions; angle and T iron; and wire, with the exceptions hereinafter mentioned	7 00 „	6 00 „

[redacted]

signed it, and have affixed thereto the seal of their arms.

Done in duplicate, at Paris, the 12th day of October, 1860.

et y ont apposé le cachet de leurs armes.

Fait en double, à Paris, le 12me jour du mois d'Octobre, 1860.

(L.S.) COWLEY.
(L.S.) RICHD. COBDEN.
(L.S.) E. THOUVENEL.
(L.S.) F. ROUHER.

TARIF.

Dénomination des Articles.	Taux des Droits d'Entrée.	
	En 1860.	En 1864.
Metaux.	Fr. c.	Fr. c.
Fer :		
Minerai de fer	Exempt	Exempt
Mâchefer, limailles et scories de forge	id.	id.
Fonte brute en masse .. / Débris de vieux ouvrages en fonte	2 50 les 100 kilo.	2 00 les 100 kilo.
Fonte épurée, dite "mazée" / Ferrailles et débris de vieux ouvrages en fer	3 25 id.	2 75 id.
Fer brut en massiaux ou prismes retenant encore des scories ..	5 00 id.	4 50 id.
Fers en barres carrées, rondes, ou plates, rails de toute forme et dimensions, fers d'angles et à T, et fils de fer, sauf les exceptions ci-après	7 00 id.	6 00 id.
Fers feuillards en bandes d'un millimètre d'épaisseur ou moins / Tôles laminées ou martelées de plus d'un millimètre d'épaisseur; en feuilles pesant 200 kilogrammes ou moins, et dont la largeur n'excède pas 1 mètre 20 centimètres, ni la longueur 4 mètres 50 centimètres	8 50 id.	7 50 id.
Idem en feuilles pesant plus de 200 kilogrammes ou bien ayant plus de 1 mètre 20 centimètres de largeur ou plus de 4 mètres 50 centimètres de longueur ..	9 50 id.	7 50 id.
Tôles minces et fers noirs en feuilles d'un millimètre d'épaisseur ou moins	13 00 id.	10 00 id.
(Des feuilles de tôle ou fers noirs, planes découpées d'une façon quelconque, paieront un dixième en sus des feuilles rectangulaires.)		

Description of Articles.	Rates of Import Duties.					
	1860.			1864.		
	Fr.	c.		Fr.	c.	
Sheets, tinned, coppered, covered with zinc or lead	16	00	100 kil.	13	00	100 kil.
Wire, not exceeding $\frac{5}{10}$ millimètres in diameter, whether tinned, coppered, or covered with zinc	14	00	„	10	00	„
Steel :						
In bars of all kinds	15	00	„	13	00	„
Sheet, exceeding 2 millimètres in thickness	22	00	„	18	00	„
Sheet, not exceeding 2 millimètres in thickness, and wire, including bright wire for instruments	30	00	„	25	00	„
Copper :						
Ore, filings and old broken articles	Free			Free		
Ditto, and brass smelted, in pigs, bars, or plates	„			„		
Rolled or beaten into bars or sheets	15	00	„	10	00	„
Wire of all sizes, whether polished or not	15	00	„	10	00	„
Gilt or silvered, beaten, drawn, or rolled, and wire laid on thread or silk	100	00	„	100	00	„
Zinc :						
Ore, crude, calcined, or pounded, filings, and old broken articles	Free			Free		
In pigs, bars, or plates	0	10	„	0	10	„
Rolled	6	00	„	4	00	„
Lead :						

Dénomination des Articles.	Taux des Droits d'Entrée.	
	En 1860.	En 1864.
	Fr. c.	Fr. c.
Fer étamé (fer blanc), cuivré, zinqué, ou plombé	16 00 les 100 kilo.	13 00 les 100 kilo.
Fil de fer de $\frac{5}{10}$ de millimètre de diamètre et au dessous, qu'il soit ou non étamé, cuivré, ou zinqué	14 00 id.	10 00 id.
Acier :		
Acier en barres de toute espèce ..	15 00 id.	13 00 id.
Aciers en tôles de plus de 2 millimètres d'épaisseur	22 00 id.	18 00 id.
Aciers en tôles de 2 millimètres d'épaisseur ou moins ..	30 00 id.	25 00 id.
Fil d'acier même blanchi pour cordes d'instruments ..		
Cuivre :		
Minerai	Exempt	Exempt
Limailles et débris de vieux ouvrages en cuivre..	id.	id.
Cuivre pur ou allié de zinc ou d'étain de première fusion en masses, barres, saumons, ou plaques	id.	id.
Id. *id.* laminé ou battu en barres ou planches	15 00 id.	10 00 id.
Cuivre pur ou allié en fils de toute dimension, polis ou non ..	15 00 id.	10 00 id.
Cuivre doré ou argenté, battu, tiré ou laminé, filé sur fil ou sur soie	100 00 id.	100 00 id.
Zinc :		
Minerai, cru ou grillé, pulvérisé ou non	Exempt	Exempt
Limailles et débris de vieux ouvrages	id.	id.
En masses brutes, saumons, barres, ou plaques	0 10 id.	0 10 id.
Laminé	6 00 id.	4 00 id.
Plomb :		
Minerai et scories de toute sorte	Exempt	Exempt
Limailles et débris de vieux ouvrages	id.	id.
En masses brutes, saumons, barres, ou plaques	3 00 id.	id.
Laminé	5 00 id.	3 00 id.
Allié d'antimoine en masse ..	5 00 id.	3 00 id.
Vieux caractères d'imprimerie ..	5 00 id.	3 00 id.
Etain :		
Minerai	Exempt	Exempt
En masses brutes, saumons, barres, ou plaques	id.	id.
Limailles et débris	id.	id.
Allié d'antimoine (métal Britannique) en lingots	5 00 id.	5 00 id.
Pur ou allié, battu, ou laminé ..	6 00 id.	6 00 id.
Bismuth :		
Brut	Exempt	Exempt
Antimoine :		
Minerai	id.	id.
Sulfuré fondu	id.	id.
Métallique ou régule	8 00 id.	6 00 id.

Description of Articles.	Rates of Import Duties.	
	1860.	1864.
	Fr. c.	Fr. c.
Nickel:		
Ore and speiss	Free	Free
Pure, and alloyed with other metals, especially copper or zinc (Argentine or German silver), in ingots or pigs	„	„
Ditto, ditto, rolled or drawn ..	15 00 100 kil.	10 00 100 kil.
Manganese:		
Ore		
Arsenic:	Free	Free
Metallic		
Ores:		
Not enumerated		
METAL MANUFACTURES.		
Cast Iron:		
Not turned nor polished:		
1st Class. Chairs for railways, plates and other castings from the open mould	3 50 „	3 00 „
2nd Class. Cylindrical pipes (straight), rafters, solid columns, and gas retorts ..	4 25 „	3 75 „
3rd Class. Pots and all other manufactures not included in the preceding classes ..	5 00 „	4 50 „
Polished or turned	9 00 „	6 00 „
Tinned, enamelled, or varnished	12 00 „	10 00 „
Wrought Iron:		
Ironwares (heavy,) including frame work; pieces of frames		
Knees and girders for ships		
Ironwork for carts and waggons		
Hinges; clamps; large bolts;		

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Dénomination des Articles.	Taux des Droits d'Entrée.	
	En 1860.	En 1864.
	Fr. c.	Fr. c.
Nickel :		
Minerai de nickel et speiss ..	Exempt	Exempt
Pur ou allié d'autres métaux, notamment de cuivre ou de zinc (argentan), en lingots ou masses brutes	id.	id.
Id. id. id. laminé ou étiré.. ..	15 00 les 100 kilo.	10 00 les 100 kilo.
Manganese :		
Minerai	Exempts	Exempts
Arsenic :		
Arsenic métallique ..		
Minerais, non dénommés ..		
Ouvrages en Metaux.		
Fonte :		
Ouvrages en fonte moulée, non tournés ni polis :		
1re Classe. Coussinets de chemins de fer, plaques ou autres pièces coulées à découvert ..	3 50 id.	3 00 id.
2e Classe. Tuyaux cylindriques, droits, poutrelles et colonnes pleines, cornues pour la fabrication du gaz..	4 25 id.	3 75 id.
3e Classe. Poteries et tous autres ouvrages non désignés dans les deux classes précédentes..	5 00 id.	4 50 id.
Ouvrages en fonte, polis ou tournés	9 00 id.	6 00 id.
Id. étamé, émaillés, ou vernissés	12 00 id.	10 00 id.
Fer :		
Ferronnerie comprenant :		
Pièces de charpente ..		
Courbes et solives pour navires		
Ferrures de charrettes et wagons		
Gonds, pentures, gros verroux, équerres et autres gros ferrements de portes ou croisées non tournés ni polis.. ..	9 00 id.	8 00 id.
Grilles en fer plein, lits, siéges et meubles de jardin ou autres, avec ou sans ornements accessoires en fonte, cuivre ou acier		
N.B. Les essieux, ressorts, et bandages de roues ne sont pas compris dans cette nomenclature, et figurent parmi les pièces détachées de machines.		
Serrurerie, comprenant, Serrures et cadenas en fer de toute sorte, fiches et charnières en tôle, loquets, targettes, et tous autres objets en fer ou tôle, tournés, polis, ou limés pour ferrures de meubles, portes, et croisées ..	15 00 id.	12 00 id.
Clous forgés à la mécanique ..	10 00 id.	8 00 id.

Description of Articles.	Rates of Import Duties.					
	1860.			1864.		
	Fr.	c.		Fr.	c.	
Nails, forged by hand	15	00	100 kil.	12	00	100 kil.
Wood screws, screw-bolts, and nuts	10	00	„	8	00	„
Anchors / Chains, and chain-cables ..	10	00	„	8	00	„
Tools, in pure iron, with or without handles	12	00	„	10	00	„
Tubes of wrought iron, simply welded, of 9 millimètres interior diameter or more	13	00	„	11	00	„
Ditto, ditto, less than 9 millimètres, and fittings of tubes	25	00	„	20	00	„
Tubes in wrought iron, welded on a mandril, or lap-welded ..	25	00	„	20	00	„
Fish-hooks (for sea fishing), tinned or not	50	00	„	50	00	„
Household articles and other wares unenumerated:						
In wrought or sheet iron, polished or painted	17	00	„	14	00	„
Ditto, ditto, enamelled, varnished, or tinned	20	00	„	16	00	„
Steel Wares:						
Tools in pure steel; files; saws, circular or straight; scythes, sickles, and others unenumerated	40	00	„	32	00	„
Needles for sewing, less than 5 centimètres in length	200	00	„	200	00	„
Ditto, of 5 and more centimètres in length	100	00	„	100	00	„
Fish hooks (for river fishing), blued or not	100	00	„	100	00	„
Metallic pens (other than gold or silver)	100	00	„	100	00	„
Small articles of ornaments, such as beads, purse garniture, brooches, and thimbles ..	25	00	„	20	00	„

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Dénomination des Articles.	Taux des Droits d'Entrée.	
	En 1860.	En 1864.
	Fr. c.	Fr. c.
Clous forgés à la main	15 00 les 100 kilo.	12 00 les 100 kilo.
Vis à bois, boulons et écrous ..	10 00 id.	8 00 id.
Ancres / Câbles et chaînes en fer ..	10 00 id.	8 00 id.
Outils en fer pur, emmanchés ou non	12 00 id.	10 00 id.
Tubes en fer étirés, soudés par simple rapprochement, de 9 millimètres de diamètre intérieur ou plus	13 00 id.	11 00 id.
Tubes de moins de 9 millimètres, raccords de toute espèce ..	25 00 id.	20 00 id.
Tubes en fer étirés, soudés sur mandrin et à recouvrement ..	25 00 id.	20 00 id.
Hameçons de mer en fer, étamés ou non	50 00 id.	50 00 id.
Articles de ménage et autres ouvrages non-dénommés :		
En fer ou en tôle, polis ou peints	17 00 id.	14 00 id.
Id. id. émaillés, étamés, ou vernissés	20 00 id.	16 00 id.
Acier :		
Outils en acier pur (limes, scies circulaires ou droites, faux, faucilles, et autres non dénommés)	40 00 id.	32 00 id.
Aiguilles à coudre, de moins de 5 centimètres	200 00 id.	200 00 id.
Id. de 5 centimètres ou plus ..	100 00 id.	100 00 id.
Hameçons de rivière en acier, bleui ou non	100 00 id.	100 00 id.
Plumes métalliques en métal autre que l'or et l'argent	100 00 id.	100 00 id.
Petits objets en acier, tels que perles, coulants, broches, et dés à coudre	25 00 id.	20 00 id.
Articles de ménage et autres ouvrages en acier pur non dénommés..	40 00 id.	32 00 id.
Coutellerie : De toute espèce	20 per cent. de la valeur, abaissés à 15 pour cent. de la valeur, à partir du 1er Janvier, 1866.	
Instruments de chirurgie, d'optique, et de précision ..	10 pour cent de la valeur.	10 pour cent de la valeur.
Armes de Commerce :		
Armes blanches	40 00 les 100 kilo.	40 00 les 100 kilo.
Armes à feu	240 00 id.	240 00 id.
METAUX DIVERS.		
Outils en fer rechargés d'acier, emmanchés ou non	18 00 id.	15 00 id.
Objets en fonte et fer, non polis, le poids du fer étant inférieur à la moitié du poids total	5 00 id.	4 50 id.
Id. id. le poids du fer étant égal ou supérieur à la moitié du poids total	10 00 id.	8 00 id.

Description of Articles.	Rates of Import Duties.					
	1860.			1864.		
	Fr.	c.		Fr.	c.	
Articles, polished, enamelled, or japanned, and with ornamental adjuncts in iron, copper, brass, or steel	15	00	100 kil.	12	00	100 kil.
Wire gauze of iron or steel ..	15	00	„	10	00	„
Cylinders of copper or brass for printing, whether engraved or not	15	00	„	15	00	„
Copper wares, metal gauze of copper or brass, works of art and ornament, and all other manufactured articles of copper, pure or alloyed with zinc or tin ..	25	00	„	20	00	„
Manufactures of zinc of all kinds	10	00	„	8	00	„
Lead pipes, and all other manufactures of lead	5	00	„	3	00	„
Printing type, new	10	00	„	8	00	„
Tin pots and pans and other manufactures of tin, whether pure or alloyed with antimony	30	00	„	30	00	„
Manufactures of nickel allied with copper or zinc (argentine) ..	100	00	„	100	00	„
Plated manufactures of every description..	100	00	„	100	00	„
Manufactures of metal gilt or silvered bythe mercurial or electro-plate processes	100	00	„	100	00	„
Plate and jewellery of gold, of silver, platina, or other metals ..	500	00	„	500	00	„
Clocks and watches ..	5 per cent. *ad valorem.*			5 per cent. *ad valorem.*		
Clock and watch movements ..	100	00	100 kil.	100	00	100 kil.
MACHINES AND MACHINERY.						
With apparatus complete:						
Steam-engines, stationary, with or without boilers or fly-wheels ..	10	00	„	6	00	„



Dénomination des Articles.	Taux des Droits d'Entrée. En 1860.			Taux des Droits d'Entrée. En 1864.		
	Fr.	c.		Fr.	c.	
Objets en fonte et fer polis, émaillés, ou vernissés, même avec ornements accessoires en fer, cuivre, laiton, ou acier	15	00	les 100 kilo.	12	00	les 100 kilo.
Toiles métalliques en fer ou en acier	15	00	id.	10	00	id.
Cylindres en cuivre ou laiton, pour impression, gravés ou non ..	15	00	id.	15	00	id.
Chaudronnerie Toiles en fils de cuivre ou laiton Objets d'art et d'ornement, et tous autres ouvrages en cuivre, pur ou allié de zinc ou d'étain	25	00	id.	20	00	id.
Ouvrages en zinc de toute espèce	10	00	id.	8	00	id.
Tuyaux et autres ouvrages de plomb de toute sorte	5	00	id.	3	00	id.
Caractères d'imprimerie neufs ..	10	00	id.	8	00	id.
Poteries et autres ouvrages en étain pur ou allié d'antimoine ..	30	00	id.	30	00	id.
Ouvrages en nickel allié au cuivre ou au zinc (argentan)	100	00	id.	100	00	id.
Ouvrages en plaqué, sans distinction de titre	100	00	id.	100	00	id.
Ouvrages en métaux, dorés ou argentés, soit au mercure, soit par les procédés électro-chimiques..	100	00	id.	100	00	id.
Orfévrerie et bijouterie en or, argent, platine, ou autres métaux	500	00	id.	500	00	id.
Horlogerie	5 pour cent de la valeur.			5 pour cent de la valeur.		
Fournitures d'horlogerie	100	00	les 100 kilo.	100	00	les 100 kilo.
MACHINES ET MECANIQUES.						
Appareils complets :						
Machines à vapeur fixes, avec ou sans chaudière, avec ou sans volant	10	00	id.	6	00	id.
Id. id. pour la navigation, avec ou sans chaudière	20	00	id.	12	00	id.
Machines locomotives ou locomobiles	15	00	id.	10	00	id.
Tenders complets de machines locomotives	10	00	id.	8	00	id.
Machines pour la filature.. ..	15	00	id.	10	00	id.
Id. pour le tissage .. Id. pour fabriquer le papier Id. à imprimer Id. pour l'agriculture .. Id. à bouter les plaques et rubans de cardes	9	00	id.	6	00	id.
Métiers à tulle	15	00	id.	10	00	id.
Appareils en cuivre à distiller Id. id. à sucre Id. id. de chauffage ..	15	00	id.	10	00	id.
Cardes non garnies	15	00	id.	10	00	id.
Chaudières à vapeur en tôle de fer, cylindriques ou sphériques, avec ou sans bouilleurs ou réchauffeurs	10	00	id.	8	00	id.

Description of Articles.	Rates of Import Duties.					
	1860.			1864.		
	Fr.	c.		Fr.	c.	
Steam-boilers, tubular, of sheet iron, with tubes of wrought iron, copper or brass, or of sheet iron riveted, with interior furnaces, and all other boilers not of cylindrical or spherical shape ..	15	00	100 kil.	12	00	100 kil.
Ditto, ditto, of sheet steel of every shape	30	00	„	25	00	„
Gasometers, open boilers, furnaces and stoves in sheet iron, or in cast and sheet iron	10	00	„	8	00	„
Machines for making machines ("machines outils") and machines not enumerated:						
Containing 75 per cent. or more of their weight in cast iron ..	9	00	„	6	00	„
Containing 50 per cent. and less than 75 per cent. of cast iron	15	00	„	10	00	„
Containing less than 50 per cent. of cast iron	20	00	„	15	00	„
Detached parts of machines:						
Sheets and fillets of cards on leather, india-rubber, or other materials	60	00	„	50	00	„
Dents of reeds in iron or in copper	30	00	„	30	00	„
Reeds complete, in iron or copper	50	00	„			
Pieces in cast iron, polished, filed, and adjusted	9	00	„	6	00	„
Pieces in wrought iron, polished, filed, and adjusted or not, without distinction of weight	15	00	„	10	00	„
Steel spring for carriages, waggons, or locomotives.. ..	17	00	„	15	00	„
Pieces in steel, polished, filed, adjusted or not: weighing						

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Dénomination des Articles.	Taux des Droits d'Entrée.	
	En 1860.	En 1864.
	Fr. c.	Fr. c.
Chaudières à vapeur tubulaires en tôle de fer, à tubes en fer, cuivre ou laiton, étirés ou en tôle clouées, à foyers intérieurs, et toutes autres chaudières de forme non cylindrique ou sphérique simple	15 00 les 100 kilo.	12 00 les 100 kilo.
Id. id. en tôle d'acier de toute forme	30 00 id.	25 00 id.
Gazomètres, chaudières découvertes, poëles et calorifères en tôle ou en fonte et tôle.. ..	10 00 id.	8 00 id.
Machines outils, et machines non dénommées :		
Contenant 75 pour cent de fonte et plus	9 00 id.	6 00 id.
Id. 50 à 75 pour cent exclusivement de leur poids en fonte	15 00 id.	10 00 id.
Id. moins de 50 pour cent de leur poids en fonte	20 00 id.	15 00 id.
Pièces détachées de machines :		
Plaques et rubans de cardes sur cuir, caoutchouc, ou sur tissus, purs ou mélangés	60 00 id.	50 00 id.
Dents de rots en fer ou en cuivre	30 00 id.	30 00 id.
Rots, ferrures ou peignes à tisser, à dents de fer ou de cuivre ..	50 00 id.	
Pièces en fonte, polies, limées et ajustées	9 00 id.	6 00 id.
Pièces en fer forgé, polies, limées et ajustées ou non, quel que soit leur poids	15 00 id.	10 00 id.
Ressorts en acier pour carrosserie, wagons et locomotives	17 00 id.	15 00 id.
Pièces en acier, polies, limées, ajustées ou non, pesant plus de un kilogramme	30 00 id.	25 00 id.
Id. pesant un kilogramme ou moins..	40 00 id.	35 00 id.
Pièces en cuivre pur, ou allié de tous autres métaux	25 00 id.	20 00 id.
Plaques et rubans de cuir, de caoutchouc et de tissus spécialement destinés pour cardes	20 00 id.	20 00 id.
Or battu en feuilles	100 00 le kilo.	100 00 le kilo.
Sucre raffiné	41 00 les 100 kilo.	41 00 les 100 kilo.
Carrosserie..	10 pour cent de la valeur.	10 pour cent de la valeur.
Tabletterie et ouvrages en ivoire	id.	id.
Peaux vernies, teintes, ou maroquinées	250 00 les 100 kilo.	250 00 les 100 kilo.
Peaux préparées, de toute autre espèce	30 00 id.	30 00 id.
Ouvrages en peau et en cuir, de toute espèce	10 pour cent de la valeur.	10 pour cent de la valeur.
Futailles vides, neuves ou vieilles, montées ou démontées :		
Cerclées en bois	Exempt	Exempt

Description of Articles.	Rates of Import Duties.	
	1860.	1864.
Wooden wares: hooped with iron hoops	10 per cent. *ad valorem.*	10 per cent. *ad valorem.*
Shovels, forks, rakes, handles of tools, of wood, with or without ferrules	Free	Free
Oars	,,	,,
Plates, spoons, porringers, and other household articles ..	,,	,,
Pieces of carpenter's work, dressed or not	,,	,,
Parts of cartwright's work, dressed or not	,,	,,
Other articles of wood, not enumerated	10 per cent. *ad valorem.*	10 per cent. *ad valorem.*
Household furniture	,,	,,
Ships and boats, built in the United Kingdom, not registered or sailing under British flag, in wood	Per ton of French measurement: Fr. c. 25 00	Fr. c. 20 00
Ditto, ditto, in iron	70 00	60 00
Hulls of ships, in wood	15 00	10 00
Ditto, ditto, in iron	50 00	40 00

N.B. The machines and machinery on board such ships shall be charged separately, according to the rates fixed by the Tariff for "Machines and Machinery."

The present tariff is approved, and annexed to the Convention concluded on the 12th October, 1860, between Great Britain and France.

(L.S.) COWLEY.
(L.S.) RICHD. COBDEN.



Dénomination des Articles.	Taux des Droits d'Entrée.	
	En 1860.	En 1864.
Cerclées en fer	10 pour cent de la valeur.	10 pour cent de la valeur.
Pelles, fourches, rateaux, et manches d'outils en bois, avec ou sans viroles	Exempt	Exempt
Avirons	id.	id.
Plats, cuillers, écuelles et autres articles de ménage en bois ..	id.	id.
Pièces de charpente, brutes ou façonnées	id.	id.
Pièces de charonnage, brutes ou façonnées	id.	id.
Autres ouvrages en bois non dénommés	10 pour cent de la valeur.	10 pour cent de la valeur.
Meubles	id.	id.
Bâtiments de mer construits dans le Royaume Uni non encore immatriculés ou naviguant sous pavillon Britannique, en bois ..	Par tonneau de jauge Française : Fr. c. 25 00	Fr. c. 20 00
Id. id. en fer	70 00	60 00
Coques de bâtiments de mer, en bois	15 00	10 00
Id. id. en fer	50 00	40 00

N.B. Les machines et moteurs installés à bord de ces bâtiments seront taxés séparément d'après le chiffre des droits spécifiés sous la rubrique "Machines et Mécaniques."

Le présent tarif est approuvé pour être annexé à la Convention conclue le 12 Octobre, 1860, entre la Grande-Bretagne et la France.

(L.S.) COWLEY.
(L.S.) RICHD. COBDEN.
(L.S.) E. THOUVENEL.
(L.S.) F. ROUHER.

desiring to insure the complete execution of the Treaty of the 23rd of January, 1860, by fixing the duties on the importation of such of the goods of British origin or manufacture enumerated in the said Treaty as were not comprised in the arrangement of the 12th of October last, have resolved to conclude, for that purpose, a Second Addi-

assurer la complète exécution du Traité du 23 Janvier, 1860, en fixant les droits à l'importation des marchandises d'origine ou de manufacture Britannique énumérées dans le dit Traité, et non comprises dans l'arrangement du 12 Octobre dernier, ont résolu de négocier dans ce but une Deuxième Convention Additionnelle, et ont à cet effet nommé

tional Convention, and have therefore named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Henry Richard Charles. Earl Cowley, Viscount Dangan, Baron Cowley, a Peer of the United Kingdom, a Member of Her Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath, Her said Majesty's Ambassador Extraordinary and Plenipotentiary to His Majesty the Emperor of the French; and Richard Cobden, Esquire, a Member of the British Parliament;

And His Majesty the Emperor of the French, M. Thouvenel, a Senator of the Empire, Grand Cross of His Imperial Majesty's Order of the Legion of Honour, &c., His Imperial Majesty's Minister and Secretary of State for Foreign Affairs; and M. Rouher, a Senator of the Empire, Grand Cross of His Imperial

pour leurs Plénipotentiaires, savoir:

Sa Majesté la Reine du Royaume Uni de la Grande-Bretagne et d'Irlande, le Très-Honorable Henry Richard Charles, Comte Cowley, Vicomte Dangan, Baron Cowley, Pair du Royaume Uni, Membre du Très-Honorable Conseil Privé de Sa Majesté Britannique, Chevalier Grand-Croix du Très-Honorable Ordre du Bain, Ambassadeur Extraordinaire et Plénipotentiaire de Sa dite Majesté près Sa Majesté l'Empereur des Français; et M. Richard Cobden, Ecuyer, Membre du Parlement Britannique;

Et Sa Majesté l'Empereur des Français, M. Thouvenel, Sénateur de l'Empire, Grand-Croix de Son Ordre Impérial de la Légion d'Honneur, &c., Son Ministre Secrétaire d'Etat au Département des Affaires Etrangères; et M. Rouher, Sénateur de l'Empire, Grand-Croix de Son Ordre Impérial de la Légion

flag, be admitted into France at the duties specified by the said tariff.

II. The rules established by Articles II, IV, V, VI, VII, and VIII, of the Convention concluded on the 12th of October last between the High Contracting Powers, for the proofs of origin, the declarations of importation, and the valuation by experts of the productions taxed *ad valorem*, shall equally apply to the various articles of British origin or manufacture enumerated in the tariff annexed to the present Convention.

Article III of the Convention of the 12th of October last, which exempts the importers of machines, or detached pieces of machines, of British origin or manufacture, from the obligation of producing models or drawings, is declared to be applicable to all the goods the importation whereof was subject to that formality, and which are comprised either in the present Convention or in that of the 12th of October last.

III. Independently of the duties of Customs stipulated in the tariff annexed to the present Convention, and by application of Articles I and IX of the Treaty concluded between the High Contracting Powers on the 23rd of January last, the undermentioned articles of British origin or manufacture shall, on their importation into France, and by way of compensation for equivalent duties paid by French manufacturers, be subjected to the supplementary duties hereinafter prescribed:

Français, seront admis en France aux droits fixés par le dit tarif.

II. Les règles consacrées par les Articles II, IV, V, VI, VII, et VIII, de la Convention conclue le 12 Octobre dernier entre les Hautes Puissances Contractantes, pour les justifications d'origine, les déclarations d'importation, et l'expertise des produits taxés *ad valorem*, s'appliqueront également aux divers produits d'origine ou de manufacture Britannique énumérés dans le tarif annexé à la présente Convention.

L'Article III de la Convention du 12 Octobre dernier, qui dispense les importateurs de machines ou de pièces détachées de machines, d'origine ou de manufacture Britannique, de l'obligation de produire des modèles ou dessins, est déclaré applicable à toutes les marchandises dont l'importation était assujettie à cette formalité, et qui sont comprises soit dans la présente Convention, soit dans celle du 12 Octobre dernier.

III. Indépendamment des droits de Douane stipulés dans le tarif annexé à la présente Convention, et par application des Articles I et IX du Traité conclu entre les Hautes Puissances Contractantes le 23 Janvier dernier, les produits d'origine ou de manufacture Britannique ci-dessous énumérés seront, à leur importation en France, et à titre de compensation des droits équivalents supportés par les fabricants Français, assujettis aux taxes supplémentaires ci-après déterminées:

	Fr.	c.	
Raw soda	4	35	100 kilo.
Crystals of soda	4	35	„
Sulphate of Soda:			
Pure: Anhydrate	6	0	„
„ Crystallised or hydrate	2	40	„
Impure: Anhydrate	5	40	„
„ Crystallised or hydrate	2	10	„
Sulphite of soda	6	0	„
Salt of soda	11	0	„
Hydrochloric acid	3	0	„
Chloride of lime	10	0	„
Chlorate of potash	66	0	„
Chloride of magnesium	4	0	„
Plate glass or large mirrors	1	0	the superficial mètre
Glass ware, window glass, and other white glass .	3	20	100 kilo.
Bottles	1	25	„
Artificial ultramarine	11	0	„
Sal ammoniac	16	0	„
Kelp	1	50	„
Salts or raw residue of the calcination of beet-root refuse	1	25	„
Salt of tin	3	0	„
Soap: White or marbled, composed of alkalis and oil of olives, or oleaginous seeds, pure or mixed with animal fat			
The oil composing at least half of the mixture of oleaginous bodies ..	8	20	„
The oil composing less than half in the mixture of oleaginous bodies ..	6	0	„
Of animal fat: Pure	6	0	



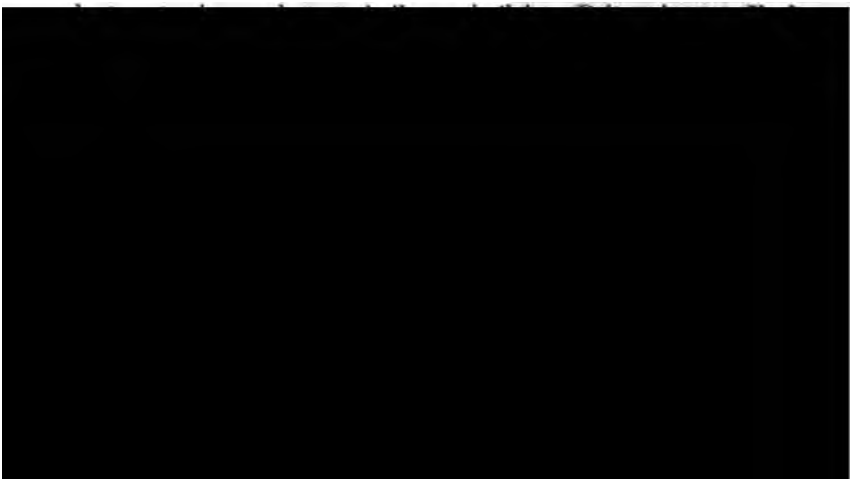
	Fr.	c.	
Soude brute..	4	35	les 100 kilo.
Cristaux de soude	4	35	„
Sulfate de soude :			
Pur : Anhydre	6	0	„
„ Cristallisé ou hydraté	2	40	„
Impur : Anhydre	5	40	„
„ Cristallisé ou hydraté	2	10	„
Sulfite de soude	6	0	„
Sel de soude	11	0	„
Acide hydrochlorique	3	0	„
Chlorure de chaux	10	0	„
Chlorate de potasse	66	0	„
Chlorure de magnésium	4	0	„
Glaces ou grands miroirs	1	0	le mètre de superficie.
Gobeletterie, verres à vitres, et autres verres blancs	3	20	les 100 kilo.
Bouteilles	1	25	„
Outremer factice	11	0	„
Sel ammoniaque	16	0	„
Soudes de varech	1	50	„
Salin ou résidu brut de la calcination des vinasses de betterave	1	25	„
Sel d'étain	3	0	„
Savons : Blancs ou marbrés, composés d'alcalis et d'huile d'olive ou de graines grasses, pures ou mélangées de graisses animales			
L'huile entrant pour la moitié au moins dans le mélange des corps gras	8	20	„
L'huile entrant pour moins de moitié dans le mélange des corps gras	6	0	„
„ De graisses animales : Purs	6	0	„
„ Mélangés de résine	6	0	„
„ D'huile de palme ou de coco mélangés de graisses animales	4	0	„
„ De couleur, composés d'huiles de graines ou de graisses animales	6	0	„
Alcool pur	90	0	l'hectolitre.
Bière	2	40	„
Vernis à l'esprit de vin, par l'hectolitre d'alcool pur contenu dans le vernis	90	0	„

It is understood that refined sugar is not comprised in this list, because the duty of 41 francs per 100 kilogrammes, fixed on the importation of that article, includes the duty on consumption with which it is now charged in France.

It is equally agreed between the High Contracting Powers that, in the event of the modification or the suppression of the duties of excise now imposed upon French manufacturers, goods of British origin and manufacture shall, with regard to such duties of excise, be subjected to the same conditions as similar French goods. If, however, in consequence of the suppression of any of such duties, the Government should establish a supervision or control, or an administrative system over certain articles of French manufacture, the direct or indirect charges which may be borne by the French manufacturer shall be countervailed by an equiva-

Il est entendu que le sucre raffiné n'est pas compris dans cette nomenclature, parce que le droit de 41 francs par 100 kilogrammes, fixé à l'importation de ce produit, comprend l'impôt de consommation dont il est actuellement grévé en France.

Il est également convenu entre les Hautes Puissances Contractantes qu'en cas de modification ou de suppression des droits d'accise actuellement imposés aux fabricants Français, les produits d'origine ou de manufacture Britannique seront, pour ces droits d'accise, soumis aux mêmes conditions que les produits similaires Français. Toutefois, si par suite de la suppression de l'un de ces droits, le Gouvernement établit une surveillance, un contrôle, ou un exercice administratif sur certains produits fabriqués Français, les charges directes ou indirectes dont seront grévés les fabricants Français seront compensées par une surtaxe équivalente établie sur les produits



designate the Custom-House of Paris exclusively for the admission of such goods.

V. Each of the High Contracting Powers engages to extend to the other any favour, any privilege or diminution of tariff, which either of them may grant to a third Power in regard to the importation of goods mentioned, or not mentioned, in the Treaty of the 23rd of January, 1860.

VI. The tariff annexed to the present Convention shall come into force within a time which shall not be later than the 1st of June, 1861, for yarns and tissues of flax, hemp, and jute, and the 1st of October following for all other articles.

VII. The present Convention shall have the same duration as the Treaty concluded between the High Contracting Parties on the 23rd of January last, of which it is a complement.

VIII. The present Convention shall be ratified, and the ratifications shall be exchanged at Paris within 15 days, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed it, and have affixed thereto the seal of their arms.

Done in duplicate, at Paris, the 16th day of November, 1860.

désigner exclusivement la Douane de Paris pour l'admission de ces marchandises.

V. Chacune des Hautes Puissances Contractantes s'engage à faire profiter l'autre de toute faveur, de tout privilége ou abaissement de tarif, que l'une d'elles accorderait à une tierce Puissance pour l'importation de marchandises mentionnées ou non dans le Traité du 23 Janvier, 1860.

VI. Le tarif annexé à la présente Convention entrera en vigueur dans un délai qui ne pourra dépasser le 1er Juin, 1861, pour les fils et tissus de lin, de chanvre, et de jute, et le 1er Octobre suivant pour tous les autres articles.

VII. La présente Convention aura la même durée que le Traité conclu entre les Hautes Puissances Contractantes le 23 Janvier dernier, dont elle est l'un des compléments.

VIII. La présente Convention sera ratifiée, et les ratifications en seront échangées à Paris dans le délai de 15 jours, ou plus tôt si faire se peut.

En foi de quoi les Plénipotentiaires respectifs l'ont signée, et y ont apposé le cachet de leurs armes.

Fait en double, à Paris, le 16me jour du mois de Novembre, de l'an 1860.

(L.S.) COWLEY.
(L.S.) RICHD. COBDEN.
(L.S.) E. THOUVENEL.
(L.S.) F. ROUHER.

TARIFF.

Description of Articles.	Rate of Duty in 1860.	Rate of Duty in 1864.
Textile Fabrics.		
Flax and Hemp:		
Flax or hemp, combed	**Fr. c. 5 00 per 100 kilo.**	
Yarn of hemp or flax measuring, to the kilogramme:		
Single:		
Unbleached:		
6,000 mètres, or less	**15 00 „**	
More than 6,000 mètres, and not more than 12,000	20 00 „	
More than 12,000 „ 24,000	30 00 „	
More than 24,000 „ 36,000	36 00 „	
More than 36,000 „ 72,000	60 00 „	
More than 72,000	100 00 „	
Bleached, or dyed:		
6,000 mètres or less	20 00 „	
More than 6,000 mètres, and not more than 12,000	27 00 „	
More than 12,000 „ 24,000	40 00 „	
More than 24,000 „ 36,000	48 00 „	
More than 36,000 „ 72,000	80 00 „	
More than 72,000	133 00 „	
Twisted:		
Unbleached	Same duties as upon single unbleached yarn, augmented by 40 per cent., according to the class.	
Bleached, or dyed ..	Same duties as upon single bleached or dyed yarns, augmented by 40 per cent., according to the class.	
Tissues of flax or hemp, plain linens and diaper, having in the warp in the space of 5 square millimètres:		
Unbleached:		
8 threads or less	30 00 per 100 kilo.	

TARIF.

Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
Industries Textiles.		
Lin :		
Lin ou chanvre peigné	Fr. c. 5 00 par 100 kilo.	
Fils de lin ou de chanvre mesurant au kilogramme :		
Simples :		
Ecrus :		
6,000 mètres ou moins ..	15 00 „	
Plus de 6,000 mètres, pas plus de 12,000	20 00 „	
Plus de 12,000 „ 24,000	30 00 „	
Plus de 24,000 „ 36,000	36 00 „	
Plus de 36,000 „ 72,000	60 00 „	
Plus de 72,000	100 00 „	
Blanchis, ou teints :		
6,000 mètres ou moins ..	20 00 „	
Plus de 6,000 mètres, pas plus de 12,000	27 00 „	
Plus de 12,000 „ 24,000	40 00 „	
Plus de 24,000 „ 36,000	48 00 „	
Plus de 36,000 „ 72,000	80 00 „	
Plus de 72,000	133 00 „	
Retors :		
Ecrus	Mêmes droits que sur les fils simples écrus, augmentés de 40 pour cent suivant la classe.	
Blanchis ou teints ..	Mêmes droits que sur les fils simples teints ou blanchis, augmentés de 40 pour cent suivant la classe.	
Tissus de lin ou de chanvre unis ou ouvrés, présentant en chaîne dans l'espace de 5 millimètres carrés :		
Ecrus :		
8 fils au moins	30 00 par 100 kilo.	
De 9, 10, et 11 fils	55 00 „	
De 12, 13, et 14 fils	90 00 „	
De 15, 16, et 17 fils	115 00 „	
De 18, 19, et 20 fils .. .	170 00 „	
De 21, 22, et 23 fils	260 00 „	
De 24 fils et au-dessus ..	400 00 „	
Blanchis, teints, ou imprimés :		
8 fils ou moins	40 00 „	
De 9, 10, et 11 fils	70 00 „	
De 12, 13, et 14 fils	120 00 „	
De 15, 16, et 17 fils	155 00 „	
De 18, 19, et 20 fils	230 00 „	
De 21, 22, et 23 fils	350 00 „	
24 fils et au-dessus	535 00 „	
Coutils unis ou façonnés présentant en chaîne dans l'espace de 5 millimètres :		
Ecrus :		
8 fils en chaîne ou moins ..	35 00 „	
De 9, 10, et 11 fils	55 00 „	
De 12, 13, et 14 fils	90 00 „	
Plus de 14 fils	115 00 „	

Description of Articles.	Rate of Duty in 1860.	Rate of Duty in 1864.
Bleached, dyed, or printed:		
8 threads or less	Fr. c. 47 00 per 100 kilo.	
9, 10, and 11 threads.. ..	70 00 „	
12, 13, and 14 threads.. ..	120 00 „	
More than 14 threads.. ..	155 00 „	
Yarns and tissues of flax or hemp mixed with other materials will pay the same duties as pure yarns and tissues of flax or hemp, provided that the flax or hemp predominates in weight.		
Damasks	16 per cent. *ad valorem*.	
Cambrics	Same duties as plain linens.	
Lawns		
Handkerchiefs, bordered ..		
Net of thread	Same duties as cotton net.	
Lace, do.	5 per cent. *ad valorem*.	
Hosiery, do..	15 per cent. *ad valorem*.	
Haberdashery, do... ..		
Ribbon of thread, unbleached, bleached, or dyed ..		
Articles made of flax or hemp, wholly or in part made up		
Articles not enumerated ..		
Jute:		
In the fibre, or hackled, imported direct from British India, or from British entrepôts, in British or French vessels ..	Free.	
Combed	3 fr. per 100 kilo.	
Jute yarn, measuring per kilogramme:		
Unbleached:		
Less than 1,400 mètres ..	Fr. c. 7 00 per 100 kilo.	Fr. c. 5 00 per 100 kilo.
From 1,400 to 2,500 mètres		

[redacted]

Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
Blanchis, teints, ou imprimés :		
8 fils ou moins	Fr. c. 47 00 par 100 kilo.	
De 9, 10, et 11 fils	70 00 „	
De 12, 13, et 14 fils	120 00 „	
Plus de 14 fils	155 00 „	
Les fils et tissus de lin ou de chanvre mélangés suivront le même régime que les fils et tissus de lin ou de chanvre purs, pourvu que le lin ou le chanvre domine en poids.		
Linge damassé	16 pour cent de la valeur.	
Batiste	Même régime que les toiles unies.	
Linons		
Mouchoirs encadrés ..		
Tulle de lin	Même régime que le tulle de coton.	
Dentelles, do.	5 pour cent de la valeur.	
Bonneterie, do.	15 pour cent de la valeur.	
Passementerie, do... ..		
Rubannerie de fil, écrue, blanchie, ou teinte..		
Articles en lin ou en chanvre, confectionnés en tout ou en partie		
Articles non dénommés ..		
Jute :		
En brins, ou teillé, importé directement de l'Inde Anglaise, ou des entrepôts du Royaume Uni sous pavillon de l'un ou l'autre des deux pays	Exempt.	
Peigné	3 fr. par 100 kilo.	
Fils de jute, mesurant au kilogramme :		
Ecrus :	Fr. c.	Fr. c.
Moins de 1,400 mètres ..	7 00 par 100 kilo.	5 00 par 100 kilo.
De 1,400 à 3,700 mètres exclusivement..	9 20 „	6 00 „
De 3,700 à 4,200 „ ..	10 20 „	7 00 „
De 4,200 à 6,000 „ ..	15 00 „	10 00 „
Plus de 6,000 „ ..	Même régime que les fils de lin.	
Blanchis ou teints :		
Moins de 1,400 mètres ..	10 00 par 100 kilo.	7 00 par 100 kilo.
De 1,400 à 3,700 mètres exclusivement..	13 00 „	9 00 „
De 3,700 à 4,200 „ ..	15 00 „	10 00 „
De 4,200 à 6,000 „ ..	22 00 „	14 00 „
Plus de 6,000 „ ..	Même régime que les fils de lin.	
Tissus de jute, présentant en chaine dans l'espace de 5 millimètres carrés :		
Ecrus :		
1, 2, et 3 fils, unis	13 00 par 100 kilo.	10 00 par 100 kilo.
1, 2, et 3 fils, croisés	15 00 „	12 00 „
4 et 5 fils	21 00 „	16 00 „
6, 7, et 8 fils	30 00 „	24 00 „
Plus de 8 fils	Même régime que les tissus de lin suivant la classe.	

Description of Articles.	Rate of Duty in 1860.	Rate of Duty in 1864.
Bleached, or dyed:	Fr. c.	Fr. c.
1, 2, and 3 threads, plain ..	19 00 per 100 kilo.	15 00 per 100 kilo.
1, 2, and 3 threads, twilled ..	22 00 „	17 00 „
4 and 5 threads	30 00 „	23 00 „
6, 7, and 8 threads	44 00 „	35 00 „
More than 8 threads	Same as tissues of linen, according to class.	
Carpets, rugs, and matting ..	32 00 per 100 kilo.	24 00 per 100 kilo.
Yarns and tissues of jute mixed with other materials, will pay the same duties as pure yarns and tissues of jute, provided that the jute predominates in weight.		
Vegetable Fibres:		
Phormium tenax, abaca, and other vegetable fibres, not specified:		
Filaments:		
Raw or stripped	Free.	
Combed or twisted	1fr. per 100 kilo.	
Threads	5 per cent. *ad valorem*.	
Tissues	10 per cent. *ad valorem*.	
Horse-hair, raw, of all kinds, prepared or curled	Free.	
Tissues and manufactures of horse-hair, pure or mixed	10 per cent. *ad valorem*.	
Cottons:		
Cotton, raw, imported direct from British India, or from British entrepôts, in British or French vessels	Free.	
Cotton, in sheets, carded, or gummed (wadding)	Fr. c. 0 10 per kilo.	
Cotton yarn, single:		
Unbleached		

Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
Blanchis ou teints :		
1, 2, et 3 fils, unis	Fr. c. 19 00 par 100 kilo.	Fr. c. 15 00 par 100 kilo.
1, 2, et 3 fils, croisés	22 00 „	17 00 „
4 et 5 fils	30 00 „	23 00 „
6, 7, et 8 fils	44 00 „	35 00 „
Plus de 8 fils	Même régime que les tissus de lin suivant la classe.	
Tapis de jute, ras ou à poil ..	32 00 par 100 kilo.	24 00 par 100 kilo.
Les fils et tissus de jute mélangés avec d'autres matières suivront le même régime que les fils et tissus de jute purs, pourvu que le jute domine en poids.		
Végétaux filamenteux :		
Phormium tenax, abaca, et autres végétaux filamenteux, non dénommés :		
Filaments :		
Bruts ou teillés	Exempts.	
Peignés ou tordus	1fr. par 100 kilo.	
Fils	5 pour cent de la valeur.	
Tissus	10 pour cent de la valeur.	
Crin brut de toute nature, même préparé ou frisé	Exempt.	
Tissus et ouvrages de crin purs ou mélangés..	10 pour cent de la valeur.	
Cotons :		
Coton de l'Inde en laine, importé soit directement des lieux de production, soit des entrepôts du Royaume Uni, sous pavillon Français ou Britannique ..	Exempt.	
Coton, en feuilles cardées ou gommées (ouates)	Fr. c. 0 10 le kilo.	
Fils de coton simples, mesurant au demi-kilogramme :		
Ecrus :		
20,000 mètres ou moins ..	0 15 „	
De 21,000 à 30,000	0 20 „	
De 31,000 à 40,000	0 30 „	
De 41,000 à 50,000	0 40 „	
De 51,000 à 60,000	0 50 „	
De 61,000 à 70,000	0 60 „	
De 71,000 à 80,000	0 70 „	
De 81,000 à 90,000	0 90 „	
De 91,000 à 100,000	1 00 „	
De 101,000 à 110,000	1 20 „	
De 111,000 à 120,000	1 40 „	
De 121,000 à 130,000	1 60 „	
De 131,000 à 140,000	2 00 „	
De 141,000 à 170,000	2 50 „	
De 171,000 et au-dessus ..	3 00 „	
Blanchis	Le droit sur le fil simple écru, augmenté de 15 pour cent.	
Teints	Le droit sur le fil simple écru, augmenté de 25 centimes par kilo.	

Description of Articles.	Rate of Duty in 1860.	Rate of Duty in 1864.
Twisted in two strands:		
Unbleached	50 per cent. above the duties on single yarn unbleached.	
Bleached	15 per cent. above twisted unbleached.	
Dyed	25 centimes per kilogramme above twisted unbleached.	
Warped yarns:		
Unbleached	50 per cent. above the duties on single unbleached yarn.	
Bleached	15 per cent. above the duties on unbleached warped yarns.	
Dyed	25 centimes per kilogramme above the duties on unbleached warped yarns.	
Yarns of 3 threads, grey, bleached, or dyed:	Fr. c.	
Single twist	0 06 per 1,000 mètres.	
Double or cable twist	0 12 „	
Cotton tissues, plain, twilled, and ticks, unbleached:		
1st Class, weighing 11 kilogrammes or more the 100 mètres square:		
Of 35 threads and less to the 5 square millimètres	0 50 per kilo.	
Of 36 threads and above	0 80 „	
2nd Class, weighing 7 to 11 kilogrammes exclusively the 100 mètres square:		
Of 35 threads and less	0 60 „	
Of 36 to 43 threads	1 00 „	
Of 44 threads and above	2 00 „	
3rd Class, weighing 3 to 7 kilogrammes exclusively the 100 mètres square:		
Of 27 threads and less	0 80 „	
Of 28 to 35 threads	1 20 „	
Of 36 to 43 threads	1 90 „	

[redacted]

Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
Fils de coton en deux bouts:		
Ecrus	Le droit afférent au numéro du fil simple employé au retordage, augmenté de 50 pour cent.	
Blanchis	Le droit sur le fil écru retors en deux bouts, augmenté de 15 pour cent.	
Teints	Le droit sur le fil écru retors en deux bouts, augmenté de 25 centimes par kilo.	
Chaînes ourdies:		
Ecrues	Le droit sur le fil simple, augmenté de 50 pour cent.	
Blanchies	Le droit sur les chaînes ourdies écrues, augmenté de 15 pour cent.	
Teintes	Le droit sur les chaînes ourdies écrues, augmenté de 25 centimes par kilo.	
Fils écrus, blanchis ou teints, en trois bouts et plus:		
A simple torsion	Fr. c. 0 6 pour 1,000 mètres.	
A plusieurs torsions ou cables ..	0 12 „	
Tissus de coton, écrus, unis, croisés, coutils:		
1ère Classe, pesant 11 kilogrammes et plus les 100 mètres carrés:		
De 35 fils et au-dessous aux 5 millimètres	0 50 le kilo.	
De 36 fils et au-dessus ..	0 80 „	
2e Classe, pesant de 7 à 11 kilogrammes exclusivement les 100 mètres carrés:		
De 35 fils et au-dessous ..	0 60 „	
De 36 fils à 43 fils	1 00 „	
De 44 fils et au-dessus	2 00 „	
3e Classe, pesant de 3 à 7 kilogrammes exclusivement les 100 mètres carrés:		
De 27 fils et au-dessous ..	0 80 „	
De 28 fils à 35 fils	1 20 „	
De 36 fils à 43 fils	1 90 „	
De 44 fils et au-dessus	3 00 „	
Tissus de coton:		
Blanchis	15 pour cent en sus du droit sur l'écru.	
Teints	25c. par kilo. en sus du droit sur l'écru.	
Imprimés	15 pour cent de la valeur.	
Velours de coton:		
Façon soie (dits "velvets"):		
Ecrus	Fr. c. 0 85 le kilo.	
Teints ou imprimés	1 10 „	
Autres—cords, moleskins, &c.:		
Ecrus	0 60 „	
Teints ou imprimés	0 85 „	
Tissus de coton écrus, unis ou croisés, pesant moins de 3 kilogrammes par 100 mètres carrés	15 pour cent de la valeur.	
Piqués, bazins, façonnés, damassés, et brillantés		

Description of Article.	Rate of Duty in 1860.	Rate of Duty in 1864.
Counterpanes and blankets Net, plain or embroidered Gauzes and muslins, embroidered or figured in the loom, for furniture or hangings .. Articles wholly or in part made up Articles not denominated..	15 per cent. *ad valorem.*	
Embroidery by hand	10 per cent. *ad valorem.*	
Lace and blonde	5 per cent. *ad valorem.*	
Cotton yarns and tissues mixed with other materials will pay the same duties as yarns and tissues of pure cotton, provided that the cotton predominates in weight.		
Woollens:		
Wool, raw, Australian, imported direct or from British entrepôts in British or French vessels ..	Fr. c. Free.	
Wool, dyed in masses	25 00 per 100 kilo.	
Ditto, combed (dyed or not) ..	25 00 „	
Single yarn of pure wool, bleached or not, containing in the kilogramme:		
Of 1 to 30,000 mètres..	0 25 per kilo.	
Of 31,000 to 40,000 „ ..	0 35 „	
Of 41,000 to 50,000 „ ..	0 45 „	
Of 51,000 to 60,000 „ ..	0 55 „	
Of 61,000 to 70,000 „ ..	0 65 „	
Of 71,000 to 80,000 „ ..	0 75 „	
Of 81,000 to 90,000 „ ..	0 85 „	
Of 91,000 to 100,000 „ ..	0 95 „	
Of 101,000 and above	1 00 „	
Double yarn for weaving, bleached or not	50 per cent. above the duty on single unbleached yarn.	
Ditto for embroidery	Double the duties on single yarns	

[redacted]

Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
Couvertures de coton ..	15 pour cent de la valeur.	
Tulles unis ou brodés ..		
Gazes et mousselines, brodées ou brochées, pour ameublements ou tentures		
Articles confectionnés en tout ou en partie		
Articles non dénommés ..		
Broderies à la main	10 pour cent de la valeur.	
Dentelles et blondes de coton ..	5 pour cent de la valeur.	
Les fils et tissus de coton mélangés paieront les mêmes droits que les fils et tissus de coton pur, pourvu que le coton domine en poids dans le mélange.		
Laine:		
Laine, en masse, d'Australie, importée soit directement des lieux de production, soit des entrepôts du Royaume Uni, sous pavillon Français ou Britannique ..	Fr. c. Exempte.	
Laine teinte en masse	25 00 par 100 kilo.	
Laine peignée (teinte ou non) ..	25 00 „	
Fils de laine pure, simples, blanchis ou non, mesurant au kilogramme:		
De 1 à 30,000 mètres ..	0 25 le kilo.	
De 31,000 à 40,000 „ ..	0 35 „	
De 41,000 à 50,000 „ ..	0 45 „	
De 51,000 à 60,000 „ ..	0 55 „	
De 61,000 à 70,000 „ ..	0 65 „	
De 71,000 à 80,000 „ ..	0 75 „	
De 81,000 à 90,000 „ ..	0 85 „	
De 91,000 à 100,000 „ ..	0 95 „	
De 101,000 et au-dessus ..	1 00 „	
Fils de laine, blanchis ou non, retors pour tissage ..	Le droit afférent aux fils de laine simples, augmenté de 50 pour cent.	
Fils de laine retors pour tapisseries	Le droit du fil simple doublé.	
Fils de laine simples ou retors, teints	Droit sur le fil non teint, augmenté de 25c. par kilo.	
Tissus de laine pure ..	15 pour cent de la valeur.	10 pour cent de la valeur.
Feutres de toute sorte ..		
Couvertures de laine pure		
Tapis de toute espèce	15 pour cent de la valeur.	
Bonneterie de laine pure ..	15 pour cent de la valeur.	10 pour cent de la valeur.
Passementerie de laine pure		
Rubannerie de laine ..		
Dentelles de laine		
Chaussons de lisière	10 pour cent de la valeur.	
Articles non dénommés	15 pour cent de la valeur.	10 pour cent de la valeur.
Lisières de drap de toute espèce, entières ou coupées	Exemptes.	
Vêtements confectionnés:		
Neufs	15 pour cent de la valeur.	10 pour cent de la valeur.
Vieux	20fr. les 100 kilo.	

Description of Articles.	Rate of Duty in 1860.	Rate of Duty in 1864.
Yarns and tissues of Alpaca, Llama, or Vicuna, pure or mixed with wool, will pay the same duties as yarns and tissues of wool in whatever proportions they may be mixed.		
Yarns and tissues of wool, or of other materials above mentioned, mixed with cotton, or with any other filaments whatever, shall pay the same duties as yarns and tissues of pure wool, provided that the wool predominates in weight.		
Yarns of goat's hair will continue to pay the duties at present in force.		
Tissues of goat's hair, other than Indian cashmere shawls and scarfs, will pay as tissues of pure wool.		
Silks:		
Silk in cocoons		Free.
Raw or thrown		Free.
Dyed:	Fr. c.	
For sewing, embroidery, or lace	3 00 per kilo.	Free.
Others		Free.
Waste silk:		
In mass		Free.
Combed	0 10 per kilo.	
In threads, single and twisted, unbleached, bleached, blued or dyed:		
Of 80,000 mètres single, or less, to the kilogramme	0 75 „	
Of 81,000 mètres single, or		

[redacted]

Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
Les fils et tissus d'Alpaca, de Lama, de Vigogne, purs ou mélangés de laine, suivront le même régime que les fils et tissus de laine, quelle que soit la proportion du mélange.		
Les fils et tissus de laine ou des autres matières ci-dessus dénommées, mélangés de coton ou d'autres filaments quelconques, paieront les mêmes droits que les fils et tissus de laine pure, pourvu que la laine domine dans le mélange.		
Les fils de poil de chèvre conserveront le régime qui leur est actuellement applicable.		
Les tissus de poils de chèvre, autres que les châles et écharpes de Cachemire des Indes, suivront le régime des tissus de laine.		
Soies :		
En cocons	Exemptes.	
Grèges et moulinées ..		
Teintes :		
A coudre, à broder, et à dentelles	Fr. c. 3 00 le kilo.	Exempt
Autres	Exemptes.	
Bourre de soie :		
En masse..	Exempte.	
Peignée	9 10 le kilo.	
Filée, simple et retorse, écrue, blanche, azurée, teinte :		
De 80,000 mètres simples au kilogramme, et au-dessous ..	0 75 „	
De 81,000 mètres simples au kilogramme, et au-dessus ..	1 20 „	
Tissus de pure soie ..	Exempts.	
Bonneterie „ ..		
Dentelles „ ..		
Crêpes, façon d'Angleterre, écrus, noir, ou de couleur	10 00 le kilo.	A partir de 1864 exempts.
Tulles :		
Unis, écrus	20 00 „	„
Apprêtés..	15 pour cent de la valeur.	„
Façonnés, écrus, ou apprêtés ..	10 pour cent de la valeur.	A partir du 1 Octobre, 1864, exempts.
Tissus de bourre de soie pure, de soie et bourre de soie, écrus, blancs, teints, imprimés ..	2 00 le kilo.	
Tissus, passementerie, et dentelles de soie, ou de bourre de soie :		
Avec or ou argent fin	12 00 „	
Avec or ou argent mi-fin ou faux	3 50 „	

Description of Articles.	Rate of Duty in 1860.	Rate of Duty in 1864.
Tissues of silk or of waste silk, mixed with other materials, in which the silk or waste silk predominates in weight	Fr. c. 3 00 per kilo.	
Ribbons of silk or of waste silk:		
Of velvet..	5 00 „	
Others	8 00 „	
Mixed with other materials, silk or waste silk predominating in weight	10 per cent. *ad valorem*.	
Chemical Products and Dye Stuffs.		
Iodine	Free.	
Bromine		
Acids:		
Sulphuric		
Nitric		
Tartaric		
Benzoic		
Citric		
Arsenic		
Lemon Juice		
Oxides:		
Of iron		
„ zinc, grey		
„ tin		
„ uranium		
„ copper		
Zaffre and other combinations of cobalt		
Sulphuret of arsenic ..		
Chloride of potassium ..		
Iodide of potassium ..		
Salts of beetroot		
Carbonates of potash ..		

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Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
Tissus de soie ou de bourre de soie mélangés, la soie ou la bourre de soie dominant en poids	Fr. c. 3 00 le kilo.	
Rubans de soie ou de bourre de soie:		
De velours	5 00 „	
Autres	8 00 „	
Mélangés, la soie ou la bourre de soie dominant en poids ..	10 pour cent de la valeur.	
PRODUITS CHIMIQUES ET MATIERES TINCTORIALES.		
Iode		
Brôme		
Acide:		
Sulfurique		
Nitrique		
Tartrique		
Benzoïque		
Borique		
Citrique		
Arsénieux		
Jus de citron		
Oxide:		
De fer		
De zinc, gris		
D'étain		
D'urane		
De cuivre		
Safre, et autres composés du cobalt		
Sulfures d'arsenic		
Chlorure de potassium ..		
Iodure de potassium ..		
Salin de betteraves ..	Exempts.	
Carbonates de potasse ..		
Nitrate de potasse		
Sulfate de potasse		
Tartrates de potasse ..		
Cendres végétales vives et lessivées		
Lies de vin		
Borax brut		
Nitrate de soude		
Soude de varech		
Noir d'os		
Os calcinés, blancs ..		
Phosphates naturels ..		
Citrates de chaux		
Sulfate de magnésie ..		
Carbonate de magnésie ..		
Chlorure de magnésium ..		
Acétate de fer liquide ..		
Garancine		
Sucre de lait		
Albumine		
Phosphore, blanc	40 00 les 100 kilo.	
Oxide de zinc (blanc de zinc) ..	7 00 „	

Description of Articles.	Rate of Duty in 1860.	Rate of Duty in 1864.
	Fr. c.	Fr. c.
Oxides and carbonates of lead ..	7 00 per 100 kilo.	4 00 per 100 kilo.
Oleic acid	5 00 per 100 kilo.	
Oxalic acid and oxalates of potash	15 00 per 100 kilo.	10 00 per 100 kilo.
Yellow prussiate of potash ..	20 00 per 100 kilo.	
Red prussiate of potash	30 00 „	
Extracts of dye woods:		
For blacks and violets	20 00 „	
For reds and yellows	30 00 „	
Turmeric, in powder	5 00 „	
Hydrochloric acid (muriatic acid).	0 60 „	
Caustic soda	8 00 per 100 kilo.	5 00 per 100 kilo.
Carbonate of soda (salt of soda) of all degrees	4 50 „	3 00 „
Artificial soda (raw)	2 30 „	1 50 „
Carbonate of soda, crystallised (crystals of soda)	2 30 „	1 50 „
Sulphate of soda and sulphite of soda	1 20 „	1 00 „
Sulphate of soda crystallised (Glauber's salts)..	1 00 „	0 70 „
Bicarbonate of soda, and other salts of soda, not specified ..	5 25 „	3 50 „
Chloride of lime	4 25 „	2 80 „
Chlorate of potash	38 60 „	25 75 „
Soap, ordinary, and for perfumery	6 00 per 100 kilo.	
Artificial ultramarine	15 00 „	
Red phosphorus		
Aluminium..		
Aluminate of soda.. ..		
Chloride of aluminium ..		
Chromates of potash ..		
Chromates of lead.. ..		
Colours not specified, dry, in paste and liquid.. ..	10 per cent. *ad valorem*.	
Stearic acid..		

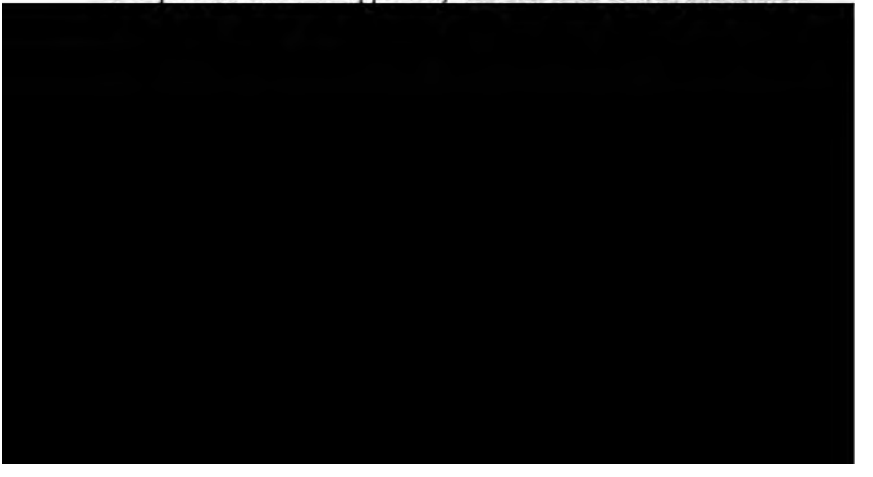
Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
	Fr. c.	Fr. c.
Oxides et carbonates de plomb ..	7 00 les 100 kilo.	4 00 les 100 kilo.
Acide oléique	5 00 les 100 kilo.	
Do. oxalique et oxalates de potasse	15 00 les 100 kilo.	10 00 les 100 kilo.
Prussiate jaune de potasse ..	20 00 les 100 kilo.	
Prussiate rouge de potasse ..	30 00 „	
Extraits de bois de teinture:		
Pour les noirs et violets ..	20 00 „	
Pour les rouges et jaunes ..	30 00 „	
Curcuma, en poudre	5 00 „	
Acide hydrochlorique (acide muriatique)	0 60 „	
Soude caustique	8 00 les 100 kilo.	5 00 les 100 kilo.
Carbonate de soude (sel de soude) à tous degrés	4 50 „	3 00 „
Soude artificielle brute	2 30 „	1 50 „
Carbonate de soude, cristallisé (cristaux de soude)	2 30 „	1 50 „
Sulfate et sulphite de soude ..	1 20 „	1 00 „
Sulfate de soude cristallisé (sel de Glauber)	1 00 „	0 70 „
Bicarbonate de soude et autres sels de soude non dénommés ..	5 25 „	3 50 „
Chlorure de chaux..	4 25 „	2 80 „
Chlorate de potasse	38 60 „	25 75 „
Savons ordinaires et de parfumerie	6 00 les 100 kilo.	
Outremer	15 00 „	
Phosphore rouge		
Aluminium..		
Aluminate de soude ..		
Chlorure d'aluminium ..		
Chromates de potasse ..		
Do. de plomb		
Couleurs, non-dénommées, sèches, en pâte et liquides ..	10 pour cent de la valeur.	
Acide stéarique		
Colle forte et gélatine ..		
Vernis:		
A l'huile..		
A l'essence		
A l'esprit de vin.. ..		
Orseilles de toute sorte ..		
Produits chimiques, non dénommés	5 pour cent de la valeur.	
VERRERIE ET CRISTALLERIE.		
Miroirs ayant moins de 1 mètre carré	10 pour cent de la valeur.	
Glaces:		
Brutes	1 50 par mètre carré superficiel.	
Etamées ou polies	4 00 „	
Bouteilles de toutes formes ..	1 30 les 100 kilo.	
Verres:		
A vitres	3 50 „	
De couleur, polis ou gravés		
De montre et d'optique		
Gobeletterie et cristaux, blancs et colorés..	10 pour cent de la valeur.	
Vitrifications		
Emaux		
Objets en verre non dénommés		

Description of Articles.	Rate of Duty in 1860.	Rate of Duty in 1864.
Broken glass and cullet ..	Free.	
Rock crystal, rough or worked		
N.B.—Rock crystal mounted will pay as jewellery.		
EARTHENWARE AND POTTERY.		
Common Ware:		
Tiles of all kinds, bricks, and fire-bricks..	Free.	
Gas-retorts, drainage pipes and others		
Crucibles of all sorts, including those of plumbago, or black-lead		
Clay pipes		
Glazed or not, of all shapes		
Do., with decorations in relief, of one or more colours, flat or hollow	Fr. c. 5 00 per 100 kilo.	
Stoneware:		
Utensils and apparatus for the manufacture of chemical products	Free.	
Common of all sorts, flat and hollow, including bottles, flasks, household articles, kitchen utensils, &c.	4 00 per 100 kilo.	
Earthenware:		
With tin glaze-coloured paste, white glaze	Free.	
With coloured glaze, majolica, with varnish of more than one colour	20 per cent. *ad valorem.*	15 per cent. *ad valorem.*
Fine earthenware		
Fine stoneware		
Porcelain, white or decorated, of		

Dénomination des Articles.	Taux des Droits en 1860.	Taux des Droits en 1864.
Groisil et verre cassé ..	Exempt.	
Cristal de roche brut ou ouvré		
N.B.—Le cristal monté sera taxé comme la bijouterie et l'orfévrerie.		
POTERIE.		
Poterie Grossière :		
Carreaux, briques et tuiles	Exempt.	
Cornues à gaz, tuyaux de drainage et autres, creusets de toute sorte, y compris ceux en graphite et plombagine ..		
Pipes en terre		
Vernissée ou non, de toutes formes		
Id. avec décorations à reliefs, unicolores et multicolores, platerie et creux	Fr. c. 5 00 par 100 kilo.	
Poterie de Grès et Fayence :		
Ustensiles et appareils pour la fabrication des produits chimiques	Exempt.	
Commune de toute sorte, platerie et creux, comprenant la forme bouteille, les carafes, objets de ménage, ustensiles de cuisine, &c.	4 00 par 100 kilo.	
Stannifère, pâte colorée, glaçure blanche	Exempt.	
Id. à glaçure colorée, majoliques, vernissée multicolore ..	20 pour cent de la valeur.	15 pour cent de la valeur.
Fayence fine		
Grès fins		
Porcelaines de toute sorte, blanche ou dorée, Parian et biscuit blanc	10 pour cent de la valeur.	
ARTICLES DIVERS.		
Fleurs artificielles	Exemptes.	
Objets de mode		
Mercerie de toute sorte ..	10 pour cent de la valeur.	
Boutons fins ou communs, autres que de passementerie ..		
Brosserie de toute espèce ..		
Instruments de musique et pièces détachées d'instruments		
Epingles de toute sorte	50 00 les 100 kilo. (à partir du 1er Décembre, 1860.)	
Caoutchouc ouvré :		
Pur ou mélangé	20 00 les 100 kilo.	
Appliqué sur tissus en pièces ou d'autres matières	100 00 „	
Vêtements confectionnés	120 00 „	
En tissus élastiques, pièces de toute dimension..	200 00 „	

Description of Articles.	Rate of Duty in 1860.	1864.
	Fr. c.	
Boots and shoes	60 00 per 100 kilo.	
N.B.—Articles of gutta-percha pay the same duties as india-rubber.		
Oil and floor-cloth:		
For packing	5 00 „	
For furniture, hangings, and other purposes	15 00 „	
Sealing-wax	30 00 „	
Blacking of all kinds	4 00 „	
Ink, writing, drawing, and printing	20 00 „	
Cordage, cables, and fishing-nets ..	20 00 „	
Fish, fresh water:		
Fresh	Free.	
Prepared	10 00 per 100 kilo.	
Fish, sea:		
Fresh, dry, salted, or smoked (except cod)	10 00 „	
Sauces and pickles	25 00 „	
Cheese, hard	10 00 „	
Beer	2 frs. per hectolitre, in addition to the internal tax.	
Molasses:		
Containing less than 50 per cent. of saccharine matter	11 00 per 100 kilo.	
Containing more than 50	Same as raw sugar.	
Alcohol, per 100 degrees	15 frs. per hectolitre, in addition to the internal tax.	
Slates:		
For roofing	4 00 per 1000	
In squares or slabs	10 00 per 100	

The present Tariff is approved, and annexed to the Convention



Dénomination des Articles.	Taux des Droits en 1860.	1864.
	Fr. c.	
Chaussures	60 00 les 100 kilo.	
N.B.—Les ouvrages en gutta-percha suivront le même régime.		
Toiles cirées :		
Pour emballage	5 00	„
Pour ameublements, tentures ou autres usages	15 00	„
Cire à cacheter	30 00	„
Cirage de toute sorte	4 00	„
Encre à écrire, dessiner, ou imprimer	20 00	„
Cordes, cables, et filets de pêche..	20 00	„
Poisson d'eau douce :		
Frais	Exempt.	
Préparé	10 00 les 100 kilo.	
Poisson de mer :		
Frais, sec, salé ou fumé, à l'exclusion de la morue	10 00	„
Epices préparés (sauces)	25 00	„
Fromages de pâte dure	10 00	„
Bière	2 francs par hectolitre, plus le droit de consommation.	
Mélasse :		
Contenant moins de 50 pour cent de richesse saccharine	11 00 les 100 kilo.	
Id. plus de 50 pour cent de richesse saccharine	Le droit sur le sucre brut.	
Alcool, par 100 degrés, en sus des droits de consommation ..	15 00 par hectolitre.	
Ardoises :		
Pour toitures	4 00 les 1,000 en nombre.	
En carreaux ou en tables	10 00 les 100 en nombre.	

Le présent Tarif est approuvé pour être annexé à la Convention conclue le 16 Novembre, 1860, entre la Grande-Bretagne et la France.

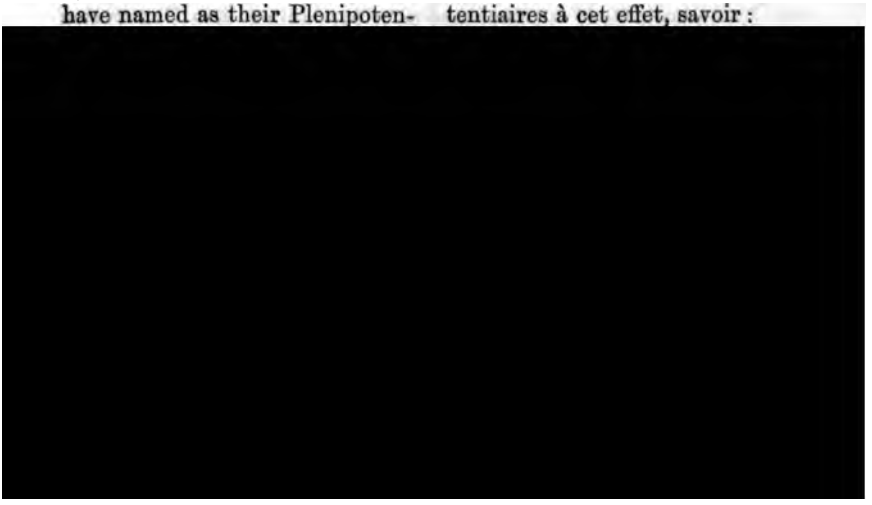
(L.S.) COWLEY.
(L.S.) RICHD. COBDEN.
(L.S.) E. THOUVENEL.
(L.S.) F. ROUHER.

CONVENTION between Great Britain and France, relative to Joint Captures in China.—Signed at Paris, February 22, 1860.

[Ratifications exchanged at Paris, March 1, 1860.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, being desirous to determine the jurisdiction to which the adjudication of joint captures which may be made during the course of the operations about to be undertaken by the naval forces of the two nations against China shall belong, or of captures which may be made of merchant-vessels belonging to subjects of either of the two countries by the cruizers of the other; and being desirous to regulate, at the same time, the mode of distribution of the proceeds of joint captures, and also the mode of division of trophies and booty which may be captured by their combined land forces, have named as their Plenipoten-

SA Majesté la Reine du Royaume Uni de la Grande-Bretagne et d'Irlande, et Sa Majesté l'Empereur des Français, voulant déterminer la juridiction à laquelle devra appartenir le jugement des prises qui, dans le cours des opérations qui vont être entreprises contre la Chine, pourront être opérées en commun par les forces navales des deux nations, ou des prises qui pourront être faites sur des navires marchands appartenant aux sujets de l'un des deux pays par les croiseurs de l'autre; et voulant régler en même temps le mode de répartition des produits des prises effectuées en commun, comme aussi le mode de partage des trophées et du butin pris par leurs armées de terre combinées, ont nommé pour leurs Plénipotentiaires à cet effet, savoir:



And His Majesty the Emperor of the French, M. Edward Antony Thouvenel, Senator of the Empire, Grand Officer of the Imperial Order of the Legion of Honour, &c., His Minister and Secretary of State for the Department of Foreign Affairs:

Who, after having exchanged their full powers, found in due form, have agreed upon the following Articles:

ART. I. When a joint capture shall be made by the naval forces of the two countries, the adjudication thereof shall belong to the jurisdiction of the country whose flag shall have been borne by the officer having the superior command in the action.

II. When a capture shall be made by a cruizer of either of the two allied nations in the presence and in the sight of a cruizer of the other, such cruizer having thus contributed to the intimidation of the enemy and encouragement of the captor, the adjudication thereof shall belong to the jurisdiction of the actual captor.

III. In case of the capture of a merchant-vessel of one of the two countries, the adjudication of such capture shall always belong to the jurisdiction of the country of the captured vessel. The cargo shall be dealt with, as to the jurisdiction, in the same manner as the vessel.

IV. In case of condemnation under the circumstances described in the preceding Articles:

1. If the capture shall have been made by vessels of the two

Et Sa Majesté l'Empereur des Français, M. Edouard Antoine Thouvenel, Sénateur de l'Empire, Grand Officier de Son Ordre Impérial de la Légion d'Honneur, &c., Son Ministre et Secrétaire d'Etat au Département des Affaires Etrangères;

Lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en due forme, sont convenus des Articles suivants:

ART. I. Lorsqu'une prise sera faite en commun par les forces navales des deux pays, le jugement en appartiendra à la juridiction du pays dont le pavillon aura été porté par l'officier qui aura eu le commandement supérieur dans l'action.

II. Lorsqu'une prise sera faite par un croiseur de l'une des deux nations alliées en présence et en vue d'un croiseur de l'autre, qui aura ainsi contribué à intimider l'ennemi et à encourager le capteur, le jugement en appartiendra à la juridiction du capteur effectif.

III. En cas de capture d'un bâtiment de la marine marchande de l'un des deux pays, le jugement en appartiendra toujours à la juridiction du pays du bâtiment capturé: la cargaison suivra, quant à la juridiction, le sort du bâtiment.

IV. En cas de condamnation dans les circonstances prévues par les Articles précédents:

1. Si la capture a été faite par des bâtiments des deux nations

nations whilst acting in conjunction, the net proceeds of the prize, after deducting the necessary expenses, shall be divided into as many shares as there were men on board the capturing vessels, without reference to rank, and the shares belonging to the men on board the vessels of the ally shall be paid and delivered to such person as may be duly authorized on behalf of the allied Government to receive the same; and the distribution of the amount belonging to each vessel shall be made by each Government according to the laws and regulations of the country.

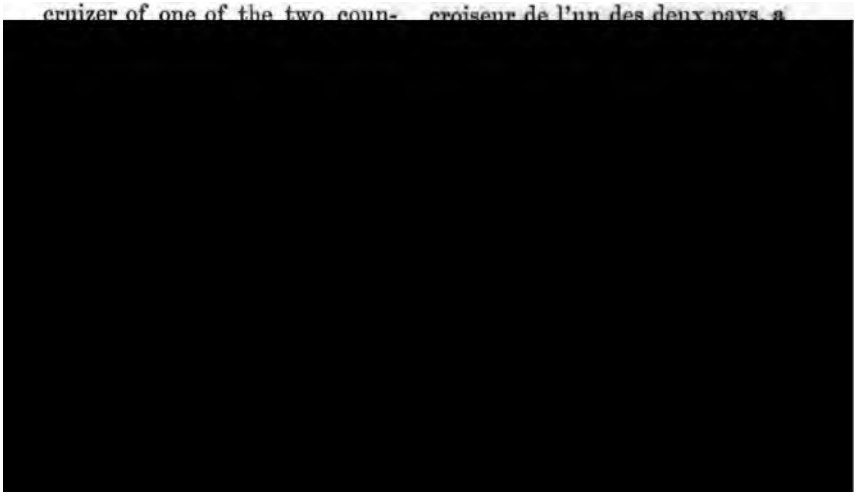
2. If the capture shall have been made by cruizers of either of the two allied nations in the presence and in sight of a cruizer of the other, the division, the payment, and the distribution of the net proceeds of the prize, after deducting the necessary expenses, shall likewise be made in the manner above mentioned.

3. If a capture, made by a cruizer of one of the two coun-

agissant en commun, le produit net de la prise, déduction faite des dépenses nécessaires, sera divisé en autant de parts qu'il y aura d'hommes embarqués sur les bâtiments capteurs, sans tenir compte des grades, et les parts revenant aux hommes embarqués sur les bâtiments de la nation alliée seront payées et délivrées à la personne qui sera dûment autorisée par le Gouvernement allié à les recevoir; et la répartition des sommes revenant aux bâtiments respectifs sera faite par les soins de chaque Gouvernement suivant les lois et les règlements du pays.

2. Si la prise a été faite par les croiseurs de l'une des deux nations alliées en présence et en vue d'un croiseur de l'autre, le partage, le paiement, et la répartition du produit net de la prise, déduction faite des dépenses nécessaires, auront lieu également de la manière indiquée ci-dessus.

3. Si la prise, faite par un croiseur de l'un des deux pays, a



and which the two Governments reserve to themselves to modify by common consent, if it should become necessary.

VI. When, with a view to the execution of the present Convention, it shall become necessary to proceed to the valuation of a captured vessel of war, the calculation shall be according to the real value of the same; and the allied Government shall be entitled to delegate one or more competent officers to assist in the valuation. In case of disagreement, it shall be decided by lot which officer shall have the casting voice.

VII. The crews of the captured vessels shall be dealt with according to the laws and regulations of the country to which the present Convention attributes the adjudication of the prize.

VIII. With regard to the mode of division of trophies and booty which may be captured by the combined land forces of their Majesties, it is agreed:

1st. That flags, cannon, and other articles which may be considered as trophies, captured by corps, or parts of corps, belonging to the land forces of the two countries, and acting in common, with or without the co-operation of the combined naval forces, shall be equally divided between the two Governments.

2ndly. That such division shall be made by corps.

3rdly. That the first choice for each kind of trophy shall be

Gouvernements se réservent de modifier, s'il y a lieu, d'un commun accord.

VI. Lorsque, pour l'exécution de la présente Convention, il y aura lieu de procéder à l'estimation d'un bâtiment de guerre capturé, cette estimation portera sur sa valeur effective; et le Gouvernement allié aura la faculté de déléguer un ou plusieurs officiers compétents pour concourir à l'estimation. En cas de désaccord, le sort décidera quel officier devra avoir la voix prépondérante.

VII. Les équipages des bâtiments capturés seront traités suivant les lois et règlements du pays auquel la présente Convention attribue le jugement de la capture.

VIII. Quant au mode de partage des trophées et du butin pris par les armées de terre combinées de leurs Majestés, il est convenu:

1. Que les drapeaux, canons, et autres objets susceptibles d'être considérés comme trophées, pris par des corps, ou parties de corps, appartenant aux armées de terre des deux pays, et agissant en commun, avec ou sans le concours des forces navales combinées, seront partagés par moitié entre les deux Gouvernements.

2. Que ce partage aura lieu par corps d'armées.

3. Qu'un tirage au sort entre les deux Commandants-en-chef

decided by lot, between the two Commanders-in-chief.

4thly. That the division of booty and of the value of trophies, such as cannon, tumbrils, and other articles which are capable of being valued, shall be made between the two Governments, according to the number of men who shall have co-operated at the capture, without deducting those who shall have fallen in the action, in order that the proceeds may be distributed according to the law of each country.

5thly. That disputed questions which may arise with regard to the distribution of booty, shall be decided by a Mixed Commission, which shall sit at Paris, and shall be composed of two delegates, one English and the other French, appointed by their respective Governments. Those delegates, before entering upon the performance of their duties, shall name two persons, of whom one shall be chosen by lot to act as an umpire in all cases in which they may themselves differ in

déterminera le premier choix pour chaque nature de trophées.

4. Que le partage du butin et de la valeur des trophées, tels que canons, caissons, et autres objets susceptibles d'évaluation, aura lieu, entre les deux Gouvernements, suivant le nombre d'hommes qui auront concouru à la capture, et sans déduction de ceux qui auront péri dans l'action, pour que le produit puisse en être distribué selon la législation intérieure de chaque pays.

5. Que les questions contentieuses qui pourraient s'élever à l'occasion du partage du butin seront décidées par une Commission Mixte, établie à Paris, et formée de deux délégués, l'un Anglais, l'autre Français, désignés par les Gouvernements respectifs. Ces délégués, avant d'entrer dans l'exercice de leurs fonctions, choisiront deux personnes, dont l'une sera désignée par le sort pour agir comme surarbitre dans tous les cas où ils pourraient eux-mêmes être en

[redacted]

In witness whereof, the respective Plenipotentiaries have signed the present Convention, and have affixed thereto the seals of their arms.

Done at Paris, the 22nd day of the month of February, in the year of our Lord 1860.

(L.S.) COWLEY.
(L.S.) E. A. THOUVENEL.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention, et y ont apposé le cachet de leurs armes.

Fait à Paris, le 22me jour du mois de Février, l'an de grâce 1860.

ANNEX.—*Instructions to the Commanders of Ships of War belonging to Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and to His Majesty the Emperor of the French.*

YOU will find inclosed a copy of a Convention which was signed on the 22nd of February, 1860, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, regulating the jurisdiction to which shall belong the adjudication of the joint captures made by the allied naval forces, or of the captures of merchant-vessels belonging to the subjects of either of the two countries which shall be made by the cruizers of the other, as likewise the mode of distribution of the proceeds of such joint captures.

In order to ensure the execution of this Convention, you will conform yourself to the following instructions:

ART. I. Whenever, in consequence of a joint action, you are required to draw up the report or *procès-verbal* of a capture,

ANNEXE.—*Instructions pour les Commandants des Bâtiments de Guerre de Sa Majesté la Reine du Royaume Uni de la Grande-Bretagne et d'Irlande, et de Sa Majesté l'Empereur des Français.*

VOUS trouverez ci-joint copie d'une Convention signée le 22 Février, 1860, entre Sa Majesté la Reine du Royaume Uni de la Grande-Bretagne et d'Irlande, et Sa Majesté l'Empereur des Français, pour régler la juridiction à laquelle devra appartenir le jugement des prises opérées en commun par les forces navales alliées, ou faites sur des navires marchands appartenant aux sujets de l'un des deux Etats par les croiseurs de l'autre, ainsi que le mode de répartition du produit des prises effectuées en commun.

Pour assurer l'exécution de cette Convention, vous aurez à vous conformer aux instructions suivantes:

ART. I. Lorsque, par suite d'une action commune, vous serez dans le cas de rédiger le rapport ou le procès-verbal d'une

you will take care to specify, with exactness, the names of the ships-of-war present during the action, as well as the names of their commanding officers, and, as far as possible, the number of men embarked on board those ships at the commencement of the action, without distinction of rank.

You will deliver a copy of that report or *procès-verbal* to the officer of the allied Power who shall have had the superior command during the action, and you will conform yourself to the instructions of that officer, as far as relates to the measures to be taken for the conduct and the adjudication of the joint captures so made under his command.

If the action has been commanded by an officer of your nation, you will conform yourself to the regulations of your own country, and you will confine yourself to handing over to the highest officer in rank of the allied Power who was present during the action a certified

capture, vous aurez soin d'indiquer avec exactitude les noms des bâtiments de guerre présents à l'action, ainsi que de leurs commandants, et, autant que possible, le nombre d'hommes embarqués à bord de ces bâtiments au commencement de l'action, sans distinction de grades.

Vous remettrez une copie de ce rapport ou procès-verbal à l'officier de la Puissance alliée qui aura eu le commandement supérieur dans l'action, et vous vous conformerez aux instructions de cet officier en ce qui concerne les mesures à prendre pour la conduite et le jugement des prises ainsi faites en commun sous son commandement.

Si l'action a été commandée par un officier de votre nation, vous vous conformerez aux règlements de votre propre pays, et vous vous bornerez à remettre à l'officier le plus élevé en grade de la Puissance alliée, présent à l'action, une copie certifiée du



rank, as well as the name of the allied ship of war which was in sight, and, if possible, the number of men embarked on board that ship, likewise without distinction of rank. You will deliver a certified copy of your report, or *procès-verbal*, to the commander of that ship.

III. Whenever, in the case of a violation of a blockade, of the transport of contraband articles, of land or sea troops of the enemy, or of official despatches from or for the enemy, you find yourself under the necessity of stopping and seizing a merchant-vessel of the allied nation, you will take care:

1. To draw up a report (or *procès-verbal*), stating the place, the date, and the motive of the arrest, the name of the vessel, that of the captain, the number of the crew; and containing besides an exact description of the state of the vessel and of her cargo.

2. To collect and place in a sealed packet, after having made an inventory of them, all the ship's papers, such as registers, passports, charter-parties, bills of lading, invoices, and other documents calculated to prove the nature and the ownership of the vessel and of her cargo.

3. To place seals upon the hatches.

4. To place on board an officer, with such number of men as you may deem advisable, to take charge of the vessel, and to ensure its safe conduct.

ainsi que le nom du bâtiment de guerre allié qui se trouvait en vue, et, s'il est possible, le nombre d'hommes embarqués à bord, également sans distinction de grade. Vous remettrez une copie certifiée de votre rapport ou procès-verbal au commandant de ce bâtiment.

III. Lorsqu'en cas de violation de blocus, de transport d'objets de contrebande, de troupes de terre ou de mer ennemies, ou de dépêches officielles de ou pour l'ennemi, vous serez dans le cas d'arrêter et saisir un bâtiment de la marine marchande du pays allié, vous devrez:

I. Rédiger un procès-verbal, énonçant le lieu, la date, et le motif de l'arrestation, le nom du bâtiment, celui du capitaine, le nombre des hommes de l'équipage; et contenant en outre la description exacte de l'état du navire et de sa cargaison.

2. Réunir en un paquet cacheté, après en avoir fait l'inventaire, tous les papiers de bord, tels que actes de nationalité ou de propriété, passeports, chartes-parties, connaissements, factures, et autres documents propres à constater la nature et la propriété du bâtiment et de la cargaison.

3. Mettre les scellés sur les écoutilles.

4. Placer à bord un officier, avec tel nombre d'hommes que vous jugerez convenable, pour prendre le bâtiment en charge, et en assurer la conduite.

5. To send the vessel to the nearest port belonging to the Power whose flag it carried.

6. To deliver up the vessel to the authorities of the port to which you shall have taken her, together with a duplicate of the report (or *procès-verbal*), and of the inventory above-mentioned, and with the sealed packet containing the ship's papers.

IV. The officer who conducts the captured vessel will procure a receipt proving his having delivered her up, as well as his having delivered the sealed packet, and the duplicate of the report (or *procès-verbal*) and of the inventory above-mentioned.

V. In case of distress, if the captured vessel is not in a fit state to continue its voyage, or in case the distance should be too great, the officer charged to conduct to a port of the allied Power a prize made on the merchant service of that Power, may enter a port of his own country or a neutral port; and he will

5. Envoyer le bâtiment au port le plus voisin de la Puissance dont il portait le pavillon.

6. Faire remettre le bâtiment aux autorités du port où vous l'aurez fait conduire, avec une expédition du procès-verbal et de l'inventaire ci-dessus mentionnés, et avec le paquet cacheté, contenant les papiers de bord.

IV. L'officier conducteur d'un bâtiment capturé se fera délivrer un reçu constatant la remise qu'il en aura faite, ainsi que la délivrance qu'il aura faite du paquet cacheté et de l'expédition du procès-verbal et de l'inventaire ci-dessus mentionnés.

V. En cas de détresse, si le bâtiment capturé est hors d'état de continuer sa route, ou en cas de trop grand éloignement, l'officier chargé de conduire dans un port de la Puissance alliée une prise faite sur la marine marchande de cette Puissance, pourra entrer dans un port de son propre pays ou dans un port neutre;



VI. You are not to consider as prisoners of war, and you will allow freely to land, all women, children, and persons not belonging to the military or maritime profession who shall be found on board the captured vessels.

With this exception, and those which may be suggested by the consideration of your own security, you will not permit any person to be removed from on board the vessel; and in all cases you will retain the master, supercargo, and others whose evidence may be essential to the adjudication of the prize.

You will treat as prisoners of war, with the exceptions abovementioned in § 1, all persons whatever who may be found on board the enemy's vessels.

You will place no other restriction on the liberty of allied or neutral subjects found on board allied or neutral vessels, than such as may be necessary for the security of the vessel.

With respect to your own countrymen, you will treat them according to the general instructions with which you are furnished, and you will, in no case, deliver them up to a foreign jurisdiction.

The persons who may have been exceptionally removed from the captured vessels shall afterwards be sent back to their own country, if they belong to the allied nation; if they are neutrals or enemies, they shall be treated as if they had been found on

VI. Vous ne considérerez point comme prisonniers, et vous laisserez librement débarquer, les femmes, les enfants, et les personnes étrangères au métier des armes ou à la marine, qui se trouveront à bord des bâtiments arrêtés.

Sauf cette exception et celles que vous suggérera le soin de votre sûreté, vous ne distrairez aucun individu du bord; dans tous les cas, vous conserverez à bord le capitaine, le subrécargue, et ceux dont le témoignage serait essentiel pour le jugement de la prise.

Vous traiterez comme prisonniers de guerre, sauf l'exception ci-dessus indiquée au § 1, tous les individus quelconques trouvés à bord des bâtiments ennemis.

Vous n'imposerez à la liberté des sujets alliés ou neutres, trouvés sur les bâtiments alliés ou neutres, d'autre restriction que celle qui pourra être nécessaire pour la sécurité du bâtiment.

Quant à vos nationaux, vous les traiterez conformément aux instructions générales dont vous êtes muni, et vous n'aurez, en aucun cas, à les remettre à une juridiction étrangère.

Les hommes distraits exceptionnellement du bord des bâtiments capturés, devront être ultérieurement renvoyés dans leur pays, s'ils appartiennent à la nation alliée; et s'ils sont neutres ou ennemis, ils seront traités comme s'ils se fussent

board vessels captured by you separately.

trouvés sur des bâtiments capturés par vous isolément.

(L.S.) COWLEY.
(L.S.) E. A. THOUVENEL.

CONVENTION between Great Britain and France, relative to the Emigration of Labourers from India to the Colony of Réunion.—Signed at Paris, July 25, 1860.

[Ratifications exchanged at Paris, August 10, 1860.]

His Majesty the Emperor of the French having represented to Her Majesty the Queen of the United Kingdom of Great Britain and Ireland his desire to obtain immediately for the colony of Réunion, the services of a limited number of labourers from India, the two High Contracting Parties have resolved to embody the necessary arrangements for the regulation of the emigration of such labourers in a Convention, and have named as their Plenipotentiaries, that is to say:

Sa Majesté l'Empereur des Français ayant exprimé à Sa Majesté la Reine du Royaume Uni de la Grande-Bretagne et d'Irlande le désir d'obtenir immédiatement pour la colonie de la Réunion un nombre déterminé de travailleurs Indiens, les deux Hautes Parties Contractantes ont résolu de stipuler dans une Convention les dispositions nécessaires pour régler l'émigration des dits travailleurs, et ont nommé à cet effet pour leurs Plénipotentiaires, savoir:



of the French, M. Edward Antony Thouvenel, Senator of the Empire, Grand Cross of the Imperial Order of the Legion of Honour, &c., his Minister and Secretary of State for the Department of Foreign Affairs;

Who, after having exchanged their full powers, found in due form, have agreed upon the following Articles:

ART. I. The French Government shall be at liberty to recruit and engage, in the Indian territories belonging to Great Britain, labourers for the French colony of Réunion, and to embark emigrants, being subjects of Her Britannic Majesty, either in British or French ports in India, under the conditions hereinafter stipulated.

The number of labourers or emigrants to be embarked for the said colony, under the provisions of this Convention, shall not exceed 6,000.

II. The French Government shall intrust the direction of its operations in every centre of recruitment to an agent chosen by itself.

Those agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the exequatur given to Consular Agents.

III. This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of labourers for British colonies.

Français, M. Edouard Antoine Thouvenel, Sénateur de l'Empire, Grand-Croix de Son Ordre Impérial de la Légion d'Honneur, &c., son Ministre et Secrétaire d'Etat au Département des Affaires Etrangères;

Lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en due forme, sont convenus des Articles suivants:

ART. I. Le Gouvernement Français aura la faculté de recruter et d'engager sur les territoires Indiens appartenant à la Grande-Bretagne, des travailleurs pour la colonie de la Réunion, et d'embarquer les émigrants sujets de Sa Majesté Britannique, soit dans les ports Anglais, soit dans les ports Français de l'Inde, aux conditions ci-après stipulées.

Le nombre de travailleurs ou d'émigrants qui pourront être embarqués pour ladite colonie, aux termes de cette Convention, ne devra pas excéder 6,000.

II. Le Gouvernement Français confiera, dans chaque centre de recrutement, la direction des opérations à un agent de son choix.

Ces agents devront être agréés par le Gouvernement Anglais.

Cet agrément est assimilé, quant au droit de l'accorder et de le retirer, à l'exéquatur donné aux Agents Consulaires.

III. Ce recrutement sera effectué conformément aux règlements existants, ou qui pourraient être établis, pour le recrutement des travailleurs à destination des colonies Anglaises.

IV. The French agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the recruiting agents for British colonies.

V. The Government of Her Britannic Majesty shall appoint in those British ports where emigrants may be embarked, an agent who shall be specially charged with the care of their interests.

In French ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents," are comprised Consuls, Vice-Consuls, and all other commissioned Consular officers.

VI. No emigrant shall be embarked unless the agent described in the preceding Article shall have been enabled to satisfy himself either that the emigrant

IV. L'agent Français jouira, relativement aux opérations de recrutement qui lui seront confiées, pour lui comme pour les personnes qu'il emploiera, de toutes les facilités et avantages accordés aux agents de recrutement pour les colonies Anglaises.

V. Le Gouvernement de Sa Majesté Britannique désignera dans les ports Anglais où aura lieu l'embarquement des émigrants, un agent qui sera spécialement chargé de leurs intérêts.

Le même soin sera confié, dans les ports Français, à l'Agent Consulaire Anglais à l'égard des Indiens sujets de Sa Majesté Britannique.

Sous le terme "Agents Consulaires" sont compris les Consuls, Vice-Consuls, et tous autres officiers Consulaires commissionnés.

VI. Aucun émigrant ne pourra être embarqué sans que les agents désignés dans l'Article précédent aient été mis à même de s'assurer ou que l'émigrant



person designated by name, or to serve a person to whom he shall be allotted by the proper authority, on his arrival in the colony.

VIII. The contracts shall, moreover, make stipulation for:

1. The duration of the engagement, at the expiration of which the emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the emigrant.

4. Gratuitous medical treatment for the emigrant, except in cases where, in the opinion of the proper Government officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI of the present Convention.

IX. 1. The duration of the immigrant's engagement shall not be more than 5 years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of 10 years

une personne nommément désignée, soit toute personne à laquelle il sera confié par l'autorité, à son arrivée dans la colonie.

VIII. Les contrats devront, en outre, stipuler:

1. La durée de l'engagement, à l'expiration duquel le repatriement reste à la charge de l'Administration Française, et les conditions auxquelles l'émigrant pourra renoncer à son droit de repatriement gratuit;

2. Le nombre des jours et des heures de travail;

3. Les gages et les rations, ainsi que les salaires pour tout travail extraordinaire, et tous les avantages promis à l'émigrant;

4. L'assistance médicale gratuite pour l'émigrant, excepté pour le cas où, dans l'opinion de l'Agent de l'Administration, sa maladie serait le résultat de son inconduite.

Tout contrat d'engagement portera copie textuelle des Articles IX, X, XX, et XXI de la présente Convention.

IX. 1. La durée de l'engagement d'un immigrant ne pourra être de plus de 5 années. Toutefois, en cas d'interruption volontaire du travail, régulièrement constatée, l'immigrant devra un nombre de jours égal à celui de l'interruption.

2. A l'expiration de ce terme, tout Indien qui aura atteint l'âge de 10 ans au moment de son

at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of such second engagement.

The right of the immigrant to a return-passage extends to his wife, and to his children who quitted India under the age of 10 years, as well as to those born in the colony.

X. The immigrant shall not be bound to work more than 6 days in 7, nor more than 9½ hours a-day.

The conditions of task-work, and every other kind of regula-

départ de l'Inde, aura droit à son repatriement aux frais de l'Administration Française.

3. S'il justifie d'une conduite régulière et de moyens d'existence, il pourra être admis à résider dans la colonie sans engagement; mais il perdra, dès ce moment, tout droit au repatriement gratuit.

4. S'il consent à contracter un nouvel engagement, il aura droit à une prime, et conservera le droit au repatriement à l'expiration de ce second engagement.

Le droit de l'immigrant au repatriement s'étend à sa femme, et à ses enfants ayant quitté l'Inde âgés de moins de 10 ans, et à ceux qui sont nés dans la colonie.

X. L'immigrant ne pourra être tenu de travailler plus de 6 jours sur 7, ni plus de 9½ heures par jour.

Les conditions du travail à la tâche, et tout autre mode de



gration agent, or his deputies, shall, on the departure of every emigrant ship, deliver to the British Consular Agent a nominal list of the emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies. In such case, only one copy shall be given of all contracts of which the provisions are identical.

XII. In the ports of embarcation, the emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of police relative to such establishments, to leave the depôts, or other place in which they may be lodged, in order to communicate with the British Agents, who, on their part, may, at any reasonable hour, visit the places in which the emigrants, subjects of Her Britannic Majesty, are collected or lodged.

XIII. Emigrants may leave India for the colony at all times of the year.

XIV. Every emigrant-vessel must carry a European surgeon and an interpreter.

The captains of emigrant-vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the port of embarkation for the British Consular Agent at the port of destination, and to deliver it to the Colonial Government imme-

l'agent d'émigration ou ses délégués remettront aux Agents Consulaires Anglais, au départ de tout navire d'émigrants, la liste nominative des émigrants sujets de Sa Majesté Britannique, avec les indications signalétiques, et leur communiqueront les contrats dont ils pourront demander copie. Dans ce cas, il ne leur sera donné qu'une seule copie pour tous les contrats identiques.

XII. Dans les ports d'embarquement les émigrants sujets de Sa Majesté Britannique seront libres de sortir, en se conformant aux règlements de police relatifs à ces établissements, des dépôts ou de tout endroit où ils seraient logés, pour communiquer avec les Agents Britanniques, lesquels pourront, de leur côté, visiter à toute heure convenable, les lieux où se trouveraient réunis ou logés les émigrants sujets de Sa Majesté Britannique.

XIII. Le départ des émigrants de l'Inde pour la colonie pourra avoir lieu à toutes les époques de l'année.

XIV. Tout navire transportant des émigrants devra avoir à son bord un chirurgien Européen et un interprète.

Les capitaines des navires portant des émigrants seront tenus de se charger de toute dépêche qui leur serait remise par l'Agent Britannique au port d'embarquement pour l'Agent Consulaire Britannique au port de débarquement, et la remettront immédiatement après leur

diately after his arrival.

XV. In every vessel employed for the conveyance of emigrants, subjects of Her Britannic Majesty, the emigrants shall occupy either between decks, or in cabins on the upper deck, firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than 1 mètre 65 centimètres French measure or 5½ feet English measure.

No compartment shall take more than one adult emigrant for every cubic space of 2 mètres, French measure, or 72 feet English measure in the Presidency of Bengal and at Chandernagore; and for every cubic space of 1 mètre 700 decimètres French measure, or 60 feet English measure, in other French ports, and in the Presidencies of Bombay and Madras.

An emigrant above the age of

arrivée à l'Administration Coloniale.

XV. Dans tout navire affecté au transport des émigrants sujets de Sa Majesté Britannique, les émigrants occuperont soit dans les entreponts, soit dans des cabines construites sur le pont supérieur, solidement établies et parfaitement couvertes, un espace qui sera attribué à leur usage exclusif. Ces cabines et entreponts devront avoir partout une hauteur qui ne sera pas moindre, en mesures Françaises, de 1 mètre 65 centimètres, en mesures Anglaises de 5½ pieds.

Chacun des logements ne pourra recevoir plus d'un émigrant adulte par espace cubique de 2 mètres, soit en mesures Anglaises 72 pieds, dans la Présidence du Bengale et à Chandernagor; et de un mètre 700 décimètres (soit en mesures Anglaises 60 pieds), dans les autres ports Français, et dans les Présidences de Bombay et de Madras.

Un émigrant âgé de plus de



one-fourth of the number of men.

XVII. The British Agents, at the embarkation, shall have, at all reasonable times, the right of access to every part of the ships which is appropriated to the use of emigrants.

XVIII. The Governors of the French establishments in India shall make such administrative regulations as may be necessary to insure the complete execution of the preceding stipulations.

XIX. On the arrival of an emigrant-ship in the colony, the Government shall cause to be transmitted to the British Consular Agent any dispatches which it may have received for him, together with—

1. A nominal list of all labourers disembarked, who are subjects of Her Britannic Majesty;

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the emigrants before their distribution in the colony.

A copy of the list of distribution shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right

de celui des hommes.

XVII. Les Agents Britanniques à l'embarquement auront, à tout moment convenable, le droit d'accès dans toutes les parties des navires attribuées aux émigrants.

XVIII. Les Gouverneurs des Etablissements Français dans l'Inde rendront les règlements d'administration nécessaires pour assurer l'entière exécution des clauses ci-dessus stipulées.

XIX. A l'arrivée dans la colonie d'un navire d'émigrants, l'Administration fera remettre à l'Agent Consulaire Britannique, avec les dépêches qu'elle aurait reçues pour lui :

1. Un état nominatif des travailleurs débarqués, sujets de Sa Majesté Britannique.

2. Un état des décès ou des naissances qui auraient eu lieu pendant le voyage.

L'Administration Coloniale prendra les mesures nécessaires pour que l'Agent Consulaire Britannique puisse communiquer avec les émigrants avant leur distribution dans la colonie.

Une copie de l'état de distribution sera remise à l'Agent Consulaire.

Il lui sera donné avis des décès et naissances qui pourraient survenir durant l'engagement, ainsi que des changements de maîtres, et des repatriements.

Tout réengagement ou acte de renonciation au droit de re-

to a free return-passage, shall be communicated to the Consular Agent.

XX. All immigrants, being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the colony, the right of claiming the assistance of the British Consular Agent, and no obstacle shall be opposed to the labourer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

XXI. In the distribution of labourers no husband shall be separated from his wife, nor any father or mother from their children under 15 years of age. No labourer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is em-

patriement gratuit sera communiqué à l'Agent Consulaire.

XX. Les immigrants sujets de Sa Majesté Britannique jouiront dans la colonie de la faculté d'invoquer l'assistance de l'Agent Consulaire Britannique au même titre que tous les autres sujets relevant de la Couronne Britannique et conformément aux règles ordinaires du droit international, et il ne sera apporté aucun obstacle à ce que l'engagé puisse se rendre chez l'Agent Consulaire et entrer en rapport avec lui; le tout sans préjudice, bien entendu, des obligations résultant de l'engagement.

XXI. Dans la répartition des travailleurs aucun mari ne sera séparé de sa femme, aucune père ni aucune mère de ses enfants âgés de moins de 15 ans. Aucun travailleur, sans son consentement, ne sera tenu de changer de maître, à moins d'être remis à l'Administration, ou à l'acquéreur de l'établissement dans lequel il est occupé.

[redacted]

British vessels which may engage in those operations shall be bound to conform to all the measures of police, health, and equipment which may apply to French vessels.

XXIII. The labour regulations of Martinique shall serve as a basis for all the regulations of the colony with regard to Indian emigrants, subjects of Her Britannic Majesty.

The French Government engages not to introduce into those regulations any modification the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labour more stringent than those prescribed by the said regulations.

XXIV. The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

XXV. It is understood that the stipulations of the present Convention relative to Indian subjects of Her Britannic Majesty introduced into the colony shall be maintained in force in favour of the said Indians until they shall either have been sent back to their own country, or have renounced their right to a return-passage.

XXVI. The present Conven-

Les navires Anglais qui se livreront à ces opérations devront se conformer à toutes les mesures de police, d'hygiène, et d'installation qui seraient imposées aux bâtiments Français.

XXIII. Le règlement de travail de la Martinique servira de base à tous les règlements de la colonie en ce qui concerne les émigrants Indiens, sujets de Sa Majesté Britannique.

Le Gouvernement Français s'engage à n'apporter à ce règlement aucune modification qui aurait pour conséquence ou de placer lesdits sujets Indiens dans une position exceptionnelle, ou de leur imposer des conditions de travail plus dures que celles stipulées par ledit règlement.

XXIV. Les dispositions de la présente Convention relatives aux Indiens sujets de Sa Majesté Britannique sont applicables aux natifs de tout Etat Indien placé sous la protection ou le contrôle politique de Sa dite Majesté, ou dont le Gouvernement aura reconnu la suprématie de la Couronne Britannique.

XXV. Il est entendu que les stipulations de la présente Convention relativement aux sujets Indiens de Sa Majesté Britannique introduits dans la colonie seront prorogées de plein droit en faveur des dits Indiens jusqu'à ce qu'ils soient repatriés, ou qu'ils aient renoncé au droit de repatriement.

XXVI. La présente Conven-

tion shall be ratified, and the ratifications shall be exchanged at Paris as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the present Convention, and have affixed thereto the seals of their arms.

Done at Paris, the 25th day of the month of July, in the year of our Lord 1860.

tion sera ratifiée, et les ratifications en seront échangées à Paris, aussitôt que possible.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention, et y ont apposé le cachet de leurs armes.

Fait à Paris, le 25me jour du mois de Juillet, de l'an de grâce 1860.

(L.S.) COWLEY.
(L.S.) E. THOUVENEL.

TREATY between Great Britain and Nicaragua, relative to the Mosquito Indians, and to the Rights and Claims of British Subjects.—Signed at Managua, January 28, 1860.

[Ratifications exchanged at London, August 2, 1860.]

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to settle in a friendly manner certain questions in

Su Magestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, y la República de Nicaragua, deseosas de arreglar de una manera amistoso ciertas cuestiones en que estan mutua-



And his Excellency the President of the Republic of Nicaragua, Don Pedro Zeledon, Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ART. I. On exchanging the ratifications of the present Treaty, Her Britannic Majesty, subject to the conditions and engagements specified therein, and without prejudice to any question of boundary between the Republics of Nicaragua and Honduras, will recognize as belonging to and under the sovereignty of the Republic of Nicaragua, the country hitherto occupied or claimed by the Mosquito Indians within the frontier of that Republic, whatever that frontier may be.

The British Protectorate of that part of the Mosquito territory shall cease 3 months after the exchange of the ratifications of the present Treaty; in order to enable Her Majesty's Government to give the necessary instructions for carrying out the stipulations of said Treaty.

II. A district within the territory of the Republic of Nicaragua shall be assigned to the Mosquito Indians, which district shall remain, as above stipulated, under the sovereignty of the Republic of Nicaragua.

Such district shall be com-

Y su Excelencia el Señor Presidente de la República de Nicaragua, al Señor Licenciado Don Pedro Zeledon, Ministro de Relaciones Exteriores;

Quienes, habiendose comunicado sus respectivos plenos poderes, y encontradolos en buena y debida forma, estipularon y concluyeron los siguientes Articulos:

ART. I. Al cangearse las ratificaciones del presente Tratado, Su Magestad Británica, conforme á las condiciones y compromisos en el especificados, y sin que afecte ninguna cuestion de limites entre las Repúblicas de Nicaragua y Honduras, reconocerá como parte integrante y bajo la soberania de la República de Nicaragua, el pais hasta aqui ocupado ó reclamado por los Indios Mosquitos, dentro de la frontera de dicha República, cualquiera que sea aquella frontera.

El Protectorado Británico sobre aquella parte del territorio Mosquito cesará très meses despues del cange de las ratificaciones del presente Tratado; á fin de que el Gobierno de Su Magestad pueda dar las instrucciones necesarias para llevar á efecto las estipulaciones de dicho Tratado.

II. Se asignará á los Indios Mosquitos dentro del territorio de la República de Nicaragua un distrito que permanecerá, como se ha estipulado arriba, bajo la soberania de la República de Nicaragua.

Dicho distrito será compren-

prised in a line which shall begin at the mouth of the River Rama in the Caribbean Sea; thence it shall run up the midcourse of that river to its source, and from such source proceed in a line due west to the meridian of 84° 15′ longitude west from Greenwich; thence due north up the said meridian until it strikes the River Hueso, and down the midcourse of that river to its mouth in the sea, as laid down in Baily's map, at about latitude from 14° to 15° north, and longitude 83° west from the meridian of Greenwich; and thence southerly along the shore of the Caribbean Sea to the mouth of the River Rama, the point of commencement.

But the district thus assigned to the Mosquito Indians may not be ceded by them to any foreign person or State, but shall be and remain under the sovereignty of the Republic of Nicaragua.

III. The Mosquito Indians,

dido en una linea que principiará en la embocadura del Rio Rama en el Mar Caribe; de allí correrá sobre la mediania de la corriente de aquel rio hasta su origen; y de este origen continuará en una linea poniente derecho al meridiano de Greenwich hasta los 84° 15′ longitud occidental; de allí norte derecho á dicho meridiano hasta llegar al Rio Hueso, y siguiendo la mediania de la corriente de este rio, aguas abajo, hasta su embocadura en el mar, como está en el mapa de Baily, à una latitud norte de 14° á 15°, y 83° longitud occidental del meridiano de Greenwich; y de allí hacia el sur, siguiendo la costa del Mar Caribe hasta la embocadura del Rio Rama, punto de partida.

Pero el distrito así asignado á los Indios Mosquitos no podrá ser cedido por ellos á ninguna persona ni Estado estrangero, sino que estará y permanecerá bajo la soberania de la República de Nicaragua.

III. Los Indios Mosquitos,

and regulations so established, or to be established, within the said district.

IV. It is understood however, that nothing in this Treaty shall be construed to prevent the Mosquito Indians, at any future time, from agreeing to absolute incorporation into the Republic of Nicaragua on the same footing as other citizens of the Republic, and from subjecting themselves to be governed by the general laws and regulations of the Republic instead of by their own customs and regulations.

V. The Republic of Nicaragua being desirous of promoting the social improvement of the Mosquito Indians, and of providing for the maintenance of the authorities to be constituted under the provisions of Article III of this Treaty, in the district assigned to the said Indians, agrees to grant to the said authorities, for the space of 10 years, with a view to such purposes, an annual sum of 5,000 hard dollars. The said sum shall be paid at Greytown, by half-yearly payments, to such person as may be authorized by the Chief of the Mosquito Indians to receive the same, and the first payment shall be made 6 months after the exchange of the ratifications of the present Treaty.

For the payment of this sum Nicaragua will levy and especially consign a duty, to be levied according to weight, on all packages of goods that are

costumbres y reglamentos así establecidos, ó que se establezcan, dentro del dicho distrito.

IV. Queda entendido sin embargo, que nada de lo contenido en este Tratado deberá interpretarse como que impide que los Indios Mosquitos, en cualquier tiempo futuro, convengan en la absoluta incorporacion á la República de Nicaragua, bajo el mismo pie que los otros ciudadanos de la República, y se sujeten à ser gobernados por las leyes y reglamentos generales de la República, en vez de serlo por sus propias costumbres y reglamentos.

V. La República de Nicaragua, deseosa de promover la mejora social de los Indios Mosquitos, y de proveer à la manutencion de las autoridades que se establezcan, segun las estipulaciones del Articulo III de este Tratado, en el distrito asignado á dichos Indios, conviene en conceder con tal objeto á dichas autoridades por espacio de 10 años, y con la mira de llenar aquellos objetos, una suma anual de 5,000 pesos fuertes. Dicha suma será pagada en Greytown, en pagos semestrales, á la persona que sea autorizada por el Gefe de los Indios Mosquitos para recibirla; y el primer pagamento se verificará 6 meses despues del cange de las ratificaciones del presente Tratado.

Para pagar esta suma, Nicaragua impondrá y consignará especialmente un derecho al peso sobre todos los bultos de efectos que por aquel puerto se importen

imported into that port for consumption in the territory of the Republic; and in case this duty shall not suffice for the payment of said sum, the deficit shall be made up from the other duties levied in the Republic.

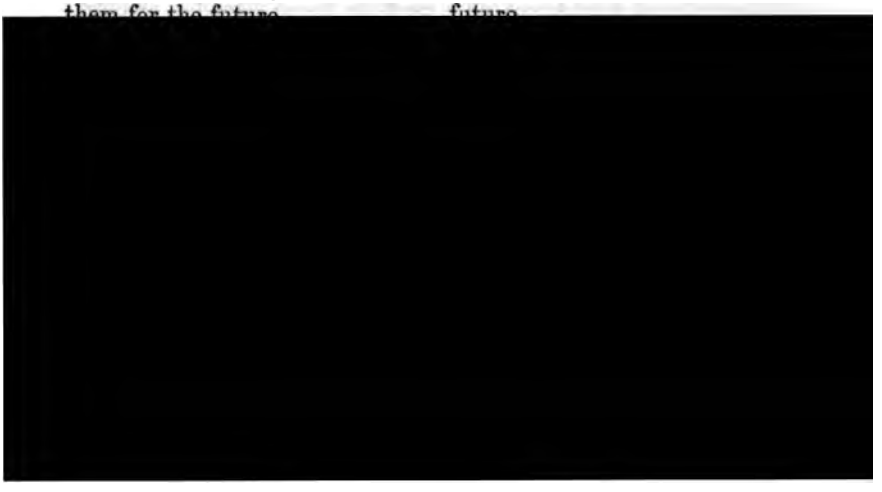
VI. Her Britannic Majesty engages to use her good offices with the Chief of the Mosquito Indians, so that he shall accept the stipulations which are contained in this Convention.

VII. The Republic of Nicaragua shall constitute and declare the port of Greytown, or San Juan del Norte, a free port under the sovereign authority of the Republic. But the Republic, taking into consideration the immunities heretofore enjoyed by the inhabitants of Greytown, consents that trial by jury in all cases, civil or criminal, and perfect freedom of religious belief and worship, public and private, such as has hitherto been enjoyed by them up to the present moment, shall be guaranteed to them for the future.

para el consumo en el territorio de la República, sin perjuicio de hacerlo en el deficit de las demas rentas de la República.

VI. Su Majestad Británica se compromete á emplear sus buenos oficios con el Gefe de los Indios Mosquitos, de modo que aceptará las estipulaciones contenidas en esta Convencion.

VII. La República de Nicaragua constituirá y declarará el puerto de Greytown, ó San Juan del Norte, puerto libre bajo la soberana autoridad de la República. Pero la República, tomando en consideracion las inmunidades que hasta aqui han disfrutado los habitantes de Greytown, consiente en que el juicio por jurado en todas las causas, civiles ó criminales, y perfecta libertad de creencia religiosa y de culto, publico y privado, tal cual la han disfrutado hasta este momento, les serán garantidas para el futuro.



Republic of Nicaragua from levying the usual duties on goods destined for consumption within the territory of the Republic.

VIII. All *bonâ fide* grants of land for due consideration made in the name and by the authority of the Mosquito Indians, since the 1st of January, 1848, and lying beyond the limits of the territory reserved for the said Indians, shall be confirmed, provided the same shall not exceed in any case the extent of 100 yards square, if within the limits of San Juan or Greytown, or one league square if without the same, and provided that such grant shall not interfere with other legal grants made previously to that date by Spain, the Republic of Central America, or Nicaragua; and provided further, that no such grant shall include territory desired by the Government of the latter State, for forts, arsenals, or other public buildings. This stipulation only embraces those grants of land made since the 1st of January, 1848.

In case, however, any of the grants referred to in the preceding paragraph of this Article should be found to exceed the stipulated extent, the Commissioners hereinafter mentioned shall, if satisfied of the *bona fides* of any such grants, confirm to the grantee or grantees, or to his

como que impide el que la República de Nicaragua imponga los derechos acostumbrados sobre los efectos destinados para el consumo en el territorio de la República de Nicaragua.

VIII. Todas las enagenaciones de terrenos hechas *bonâ fide* por justa compensacion en nombre y por autoridad de los Indios Mosquitos desde el 1o de Enero, 1848, situados fuera de los limites del territorio reservado para dichos Indios Mosquitos, serán confirmadas, con tal que elles no excedan en ningun caso la estencion de 100 yardas cuadradas, si el terreno estuviese dentro de los limites de San Juan ó Greytown, ó de una legua cuadrada, si se hallase fuera de aquellos limites; y con tal que dicha enagenacion no pugne con otras enagenaciones legales hechas con anterioridad á aquella fecha, por España, la República de Centro-America, ó el Estado de Nicaragua; y con tal que ademas ninguna de dichas enagenaciones incluya territorio que el Gobierno de este ultimo Estado necesite para fuertes, arsenales, ú otros edificios publicos. Esta estipulacion solo abraza aquellas enagenaciones de terrenos hechas desde el 1o de Enero, 1848.

Sin embargo, en caso de que cualquiera de las enagenaciones á que se ha hecho relacion en el parrafo precedente de este Articulo se encontrase exceder la estension estipulada, los Comisionados que adelante se mencionarán, si se convenciesen de la buena fé de cualquiera de estas

or their representatives or assigns, an area only equal to the stipulated extent.

And in case any *bonâ fide* grant, or any part thereof, should be desired by the Government for forts, arsenals, or other public buildings, an equivalent extent of land shall be allotted to the grantees elsewhere.

* It is understood that the grants of land treated of in this Article shall not extend to the westward of the territory reserved for the Mosquito Indians in Article II further than 84° 30′ of longitude, in a line parallel and equal with that of the said territory on the same side; and if it should appear that any grants have been made further in the interior of the Republic, the lands acquired *bonâ fide* shall be replaced with those that are within the limit defined under the regulations agreed upon.

enagenaciones, deberán conceder al concesionario ó concesionarios, ó á sus representantes ó cesionarios, una area solamente igual à la estencion estipulada.

Y en caso de que cualquier terreno enagenado de buena fé, ó parte de el, fuese necesitado por el Gobierno para fuertes, arsenales, ú otros edificios públicos, se dará á los concesionarios una estencion equivalente de terreno en otro lugar.

* Es entendido que las enagenaciones de que habla este Articulo no deben estenderse por la parte occidental del territorio reservado á los Indios Mosquitos en el Articulo II, mas allá de 84° 30′ de longitud, en una linea parallela y igual con la de dicho territorio por el mismo lado; y si resultase que algunas enagenaciones hubiesen sido hechas mas al interior de la República, deberán reponerse los terrenos adquiridos de buena fé con los que se hallan dentro de la faja señalada bajo la regulacion convenida.

IX. His Britannic Majesty

IX. Su Majestad Británica

tioned in the preceding Article shall, at the earliest convenient period after they shall have been respectively named, meet at such place or places as shall be hereafter fixed; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, all the matters referred to them for their decision; and such declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some third person to act as arbitrator or umpire in any case or cases in which they may themselves differ in opinion. If they should not be able to agree upon the selection of such a person, the Commissioner on either side shall name a person; and in each and every case in which the Commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be arbitrator or umpire in that particular case. The person or persons so to be chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the Commissioners, which declaration shall also be entered

cionados en el Articulo precedente deberán reunirse en el periodo mas proximo y conveniente, despues de haber sido nombrados respectivamente, en el lugar ó lugares que en adelante se señalen; y antes de principiar ningun negocio, procederán á formar y suscribir una solemne declaracion de que ellos examinarán y decidirán imparcial y cuidadosamente, segun su saber y entender, y conforme á la justicia y equidad, sin temor, favor, ni afeccion á su propio pais, todos los asuntos á ellos encomendados para su decision; y esta declaracion será sentada en el libro de registros de sus procedimientos.

Entonces los Comisionados, antes de proceder á ningun otro negocio, nombrarán una tercera persona que obre como arbitro ó componedor amigable, en cualesquiera caso ó casos en que difieran de opinion. Si no pudiesen convenir en la eleccion de tal persona, cada uno de los Comisionados nombrará una persona; y en todo caso en que los Comisionados difieran en opinion, en cuanto á la decision que deben dar, se determinará por suerte cual de las dos personas así nombradas debe ser arbitro ó amigable componedor en aquel caso particular. La persona ó personas así elegidas deberán, antes de proceder á obrar, hacer y suscribir una solemne declaracion en una forma semejante á la que deberá haber sido ya hecha y firmada por los Comisionados. Esta declaracion deberá tambien sentarse en el registro de los

on the record of the proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing, to act as such arbitrator or umpire, another person or other persons shall be named as aforesaid to act in his or their place or stead, and shall make and subscribe such declaration as aforesaid.

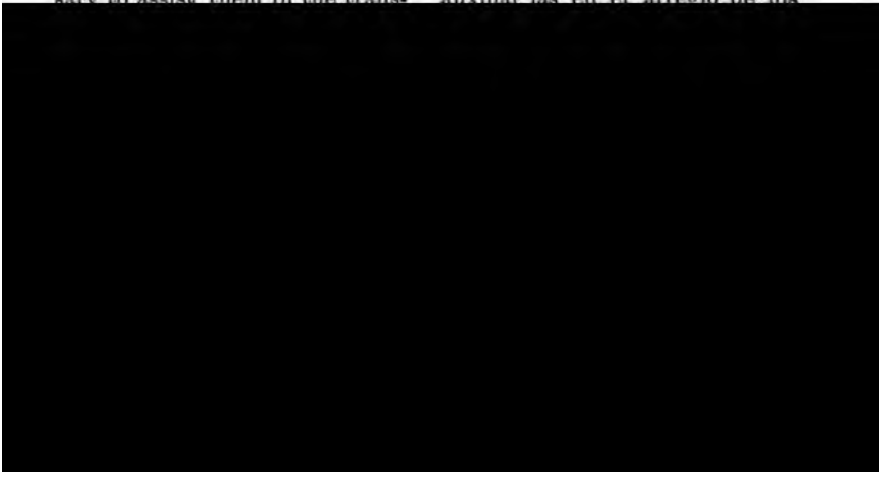
Her Britannic Majesty and the Republic of Nicaragua shall engage to consider the decision of the two Commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and conclusive on the matters to be referred to their decision, and forthwith to give full effect to the same.

XI. The Commissioners and the arbitrators or umpires shall keep accurate records and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ such clerk or clerks, or other persons, as they shall find necessary to assist them in the trans-

procedimientos. En caso de muerte, ausencia, ó incapacidad de dicha persona ó personas, ó de que omitan, declinen, ó cesen de obrar como tales arbitros ó componedores amigables, deberá nombrarse otra ú otras persona ó personas como va dicho, para que obre ú obren en su vez ó lugar, y harán y firmarán la declaracion antedicha.

Su Magestad Británica y la República de Nicaragua se comprometen á considerar la decision mancomunada de los dos Comisionados, ó del arbitro ó componedor amigable, segun fuere el caso, como final y definitiva de los asuntos que deban someterse á su decision, y á ponerlas inmediatamente en plena ejecucion.

XI. Los Comisionados y los Arbitros componedores llevarán registros exactos, y minutas ó notas correctas de todos sus procedimientos, con sus fechas, y nombrarán y emplearán el dependiente ó dependientes ú otras personas que juzguen necesarias para auxiliar las en el arreglo de los



at London as soon as possible within the space of 6 months.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Managua, this 28th day of January, in the year of our Lord, 1860.

Londres, lo mas pronto posible dentro del espacio de 6 meses.

En testimonio de lo cual los respectivos Plenipotenciarios le han firmado y sellado con sus respectivos sellos.

Hecho en Managua, á los 28 dias del mes de Enero, A.D. 1860.

(L.S.) CHARLES LENNOX WYKE.
(L.S.) PEDRO ZELEDON.

DECLARATION.

IN proceeding to the exchange of the ratifications of the Treaty concluded and signed at Managua on the 28th of January, 1860, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the Republic of Nicaragua, relative to the Mosquito Indians and to the rights and claims of British subjects, the Undersigned, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Nicaragua, hereby declare that the limitation laid down in the paragraph added by the Congress of the Republic to Article VIII* of the said Treaty applies to grants of land to the west of the meridian of 84° 30′ of longitude throughout the whole extent of the territory hitherto occupied or claimed by the Mosquito Indians within the frontier of the Republic, but not to grants in any part of the said territory to the east of that meridian line.

DECLARACION.

AL proceder al acto de las ratificaciones del Tratado concluido y firmado en Managua, el 28 de Enero de 1860, entre Su Magestad la Reina del Reino Unido de la Gran Bretaña y de Irlanda y la República de Nicaragua, relativo à los Indios Mosquitos y à los derechos y reclamaciones de los subditos Británicos; los Infrascritos, el Principal Secretario de Estado de Su Magestad Británica por los Negocios Estrangeros y el Enviado Extraordinario y Ministro Plenipotenciario de la República de Nicaragua, declaran, por las presentes, que la delimitacion contenida en el parrafo añadido por el Congreso de la República al Articulo VIII* de dicho Tratado se refiere á las concesiones de terrenos hacia el poniente del meridiano 84° 30′ de longitud, por la totalidad de la linea del territorio ocupado ó reclamado, hasta aquí, por los Indios Mosquitos dentro de la frontera de la República, pero no à las concesiones que hayan podido ser hechas en dicho territorio hacia el este del mismo meridiano.

* Page 102.

In witness whereof the Undersigned have signed the present Declaration, and have affixed thereto their respective seals.

Done at London, the 2nd day of August, in the year of our Lord 1860.

En fé de lo cual, los Infrascritos han firmado y sellado con sus respectivos sellos esta Declaracion.

Hecho en Londres el dia 2 de Agosto, del año del nuestro Señor de 1860.

(L.S.) J. RUSSELL.
(L.S.) J. DE MARCOLETA.

TREATY of Friendship, Commerce and Navigation, between Great Britain and Nicaragua.—Signed at Managua, February 11, 1860.

[Ratifications exchanged at London, August 2, 1860.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to maintain and improve the relations of good understanding which happily subsist between them, and to promote the commercial intercourse between their respective subjects and citizens, have deemed it expedient to conclude a Treaty of

SU Magestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, y la República de Nicaragua, deseosas de mantener y mejorar las relaciones de buena inteligencia que felizmente existen entre ellas, y de promover el comercio entre sus respectivos subditos y ciudadanos, han juzgado conveniente concluir un Tratado de Amistad, Comercio, y Navegacion, y con ese objeto

sident of the Republic of Nicaragua, Don Pedro Zeledon, Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ART. I. Her Majesty the Queen of the United Kingdom of Great Britain and Ireland recognizes the sovereignty and independence of the Republic of Nicaragua. Consequently, there shall be a perfect, firm, and inviolable peace and sincere friendship between Her Britannic Majesty and the Republic of Nicaragua, in all the extent of their possessions and territories, and between their subjects and citizens respectively, without distinction of persons or places.

II. The two High Contracting Parties being desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside therein, and shall have the power to purchase and hold all kinds of property which the laws of the country may permit any foreigners, of whatever nation, to hold, and to engage in all kinds of trade, manufactures, and mining, upon the same terms with subjects or citizens of other countries. They shall enjoy all the privileges and concessions in these matters which are or may

de la República de Nicaragua, al Señor Licenciado Don Pedro Zeledon, Ministro de Relaciones Exteriores;

Quienes, despues de haberse comunicado sus respectivos plenos poderes, y de encontrarlos en buena y debida forma, estipularon y concluyeron los Artículos siguientes:

ART. I. Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda reconoce la soberanía é independencia de la República de Nicaragua. En consecuencia habrá paz perfecta, firme, é inviolable, y sincera amistad entre Su Majestad Británica y la República de Nicaragua, en toda la extension de sus posesiones y territorios, y entre sus súbditos y ciudadanos respectivamente, sin distincion de personas ni de lugares.

II. Las dos Altas Partes Contratantes, deseosas de establecer el comercio y la navegacion de sus respectivos paises sobre bases liberales de perfecta igualdad y reciprocidad, mutualmente convienen en que los ciudadanos de cada una puedan frecuentar y habitar todas las costas y paises de la otra, en que puedan comprar y tener toda clase de propiedad que las leyes del pais permitan tener á los estrangeros de cualquier nacionalidad, y ocuparse en toda clase de comercio, manufactura, y mineria, en los mismos terminos que los súbditos ó ciudadanos de otros paises.

En lo relativo á estos objetos, gozarán de todos los privilegios y concesiones acordadas, ó que

be made to the subjects or citizens of any country; and shall enjoy all the rights, privileges, and exemptions, in navigation, commerce, and manfactures, which native subjects or citizens do or shall enjoy, submitting themselves to the laws there established, to which native subjects or citizens are subjected.

The ships of war and Post-Office packets of each Contracting Party respectively, shall have liberty to enter into all harbours, rivers, and places within the territories of the other, to which the ships of war and packets of other nations are or may be permitted to come; to anchor there, and to remain and refit; subject always to the laws of the two countries respectively.

The High Contracting Parties further engage that neither will grant any favour to any other nation, in respect of commerce and navigation, which shall not immediately become common to

en lo sucesivo se acuerden, á los súbditos ó ciudadanos de cualquier pais, y en la navegacion, comercio, y manufactura, gozarán de los derechos, privilegios, y exenciones de que gozan ó en lo futuro gozaren los súbditos ó ciudadanos naturales, sometiendose á las leyes establecidas, á que esten sujetos los súbditos ó ciudadanos naturales del pais. Los buques de guerra y paquetes correos de cada una de las Partes Contratantes, respectivamente, tendrán libertad de entrar en todos aquellos puertos, rios, y lugares del territorio de la otra, á que es ó en lo sucesivo fuere permetido llegar á los buques de guerra y paquetes de otras naciones; de echar anclas, permanecer, y repararse; siempre sujetos á las leyes de los dos paises respectivamente.

Las dos Altas Partes Contratantes se comprometen además, á que ninguna de ellas concederá favor alguno ó otra nacion, relativo al comercio y á la navega-

[redacted]

IV. The Contracting Parties likewise agree, that whatever kind of produce, manufacture, or merchandize can be, from time to time, lawfully imported into the British dominions in British vessels, may also be imported in vessels of the Republic of Nicaragua; and that no higher or other duties upon the vessel or upon her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other; and in like manner, that whatever kind of produce, manufacture, or merchandize can be from time to time lawfully imported into the Republic of Nicaragua in its own vessels, may be also imported in British vessels; and that no higher or other duties upon the vessel or upon her cargo shall be levied or collected, whether the importation be made in vessels of the one country or of the other.

And they further agree, that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country; and that the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in British vessels, or in vessels of the Republic of Nicaragua.

V. No higher or other duties shall be imposed on the importation into the British dominions of any article the growth, pro-

IV. Las Partes Contratantes convienen asimismo, en que cualquier clase de producto, manufactura, ó mercancia, que pueda ser de vez en cuando legalmente importada á los dominios Británicos en buques Británicos, pueda tambien ser importada en buques de la República de Nicaragua; y que no se impondrán ni exigirán otros ó mas crecidos derechos sobre el buque o sobre su carga, bien se haga la importacion en buques del un pais ó del otro; y de la misma manera, que cualquiera clase de producto, manufactura, ó mercancia que de vez en cuando pueda ser legalmente importada á la República de Nicaragua en sus propios buques, pueda tambien ser importada en buques Británicos; y que no se impondrán ni exigirán otros ó mas crecidos derechos sobre el buque ó sobre su carga, ora se haga la importacion en buques del un pais ó del otro.

Y ademas convienen en que cualquiera cosa que pueda ser legalmente exportada ó reexportada del un pais en sus propios buques, á cualquier pais extrangero, de la misma manera pueda ser exportada ó reexportada en buques del otro pais; y que se concederán y exigirán los mismos premios, impuestos, y rebajas, ya se haga la exportacion ó re-exportacion en buques Británicos ó en buques de la República de Nicaragua.

V. No se impondràn otros ó mas crecidos derechos á la importacion á los dominios Británicos, de cualquier artículo de vegeta-

duce, or manufacture of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the Republic of Nicaragua of any article the growth, produce, or manufacture of the British dominions, than are or shall be payable on the same or the like article being the produce or manufacture of any other country. Nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any article to the territories of the other, than such as are payable on the exportation of the same or the like article to any foreign country.

No prohibition shall be imposed upon the importation of any article the growth, produce, or manufacture of the territories of either of the two Contracting Parties into the territories of the other, which shall not equally extend to the importation of the same or the like article being the growth, produce, or manufacture of any other country:

cion, producto, ó manufactura de la República de Nicaragua, ni se impondrán otros ó mas crecidos derechos á la importacion á la República de Nicaragua, de cualquier artículo de vegetacion, producto, ó manufactura de los dominios Británicos, que los que se pagan ó se pagaren en lo sucesivo por el mismo artículo ú otro semejante, del producto ó manufactura de cualquier otro pais extrangero. Ni se impondrán otros ó mas crecidos derechos ó cargas, en ninguno de los dos paises, á la exportacion de cualquier artículo á los territorios del otro, que aquellos que se paguen por la exportacion del mismo artículo ú otro semejante á cualquier otro pais extrangero. No se impondrá prohibicion alguna á la importacion á los territorios de una de las dos Partes Contratantes de cualquier artículo de vegetacion, producto, ó manufactura de los territorios de la otra Parte Contratante, que no se extienda igualmente á la importacion del mismo artículo ú



quarantine, or other similar or corresponding duties, of whatever nature or under whatever denomination, levied in the name or for the profit of the Government, public functionaries, corporations, or establishments of whatever kind, shall be imposed in the ports of either country upon the vessels of the other country, which shall not be equally imposed in the like cases upon national vessels.

VII. In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the preceding Articles are, to their full extent, applicable to British vessels and their cargoes arriving in the ports of Nicaragua, and reciprocally to the vessels of the said Republic and their cargoes arriving in British ports, whether they proceed from the ports of the country to which they respectively belong, or from the ports of any other foreign country; and, in either case, no discriminating duty shall be imposed or collected in the ports of either country on the said vessels or upon their cargoes, whether such cargoes shall consist of native or of foreign produce or manufacture.

VIII. All vessels which, according to the laws of Great Britain, are to be deemed British vessels, and all vessels which, according to the laws of the Republic of Nicaragua, are to be deemed vessels of that Republic, shall, for the purposes of this Treaty, be deemed British

cuarentena, ù otros semejantes ó correspondientes, de cualquier naturaleza, ó bajo cualquier denominacion, exigidos en nombre ó en beneficio del Gobierno, funcionarios públicos, corporaciones ó establecimientos de cualquiera clase, serán impuestos en los puertos del uno y del otro pais á los buques del otro, que no sean igualmente impuestos en casos semejantes á los buques nacionales.

VII. A fin de evitar la posibilidad de una mala inteligencia, se declara por el presente que las estipulaciones contenidas en los anteriores Artículos son aplicables, en su mas plena extension, á los buques Británicos y sus cargas que arriben á los puertos de Nicaragua, y reciprocamente á los buques de dicha República y sus cargas que arriben á los puertos Británcos, ya procedan de los puertos del pais á que respectivamente pertenecen, ó de los puertos de cualquier otro pais extrangero; y en uno y otro caso, no se impondrán ni exigirán derechos especiales en los puertos de uno y otro pais, sobre dichos buques ó sobre sus cargas, bien sea que esas cargas consistan en productos ó manufacturas naturales ó extrangeras.

VIII. Todos los buques que, conforme á las leyes de la Gran Bretaña, deben ser reputados buques Británicos, y todos los buques que, conforme á las leyes de la República de Nicaragua, deben ser reputados buques de la República, para los fines de este Tratado serán repu-

vessels and vessels of Nicaragua respectively.

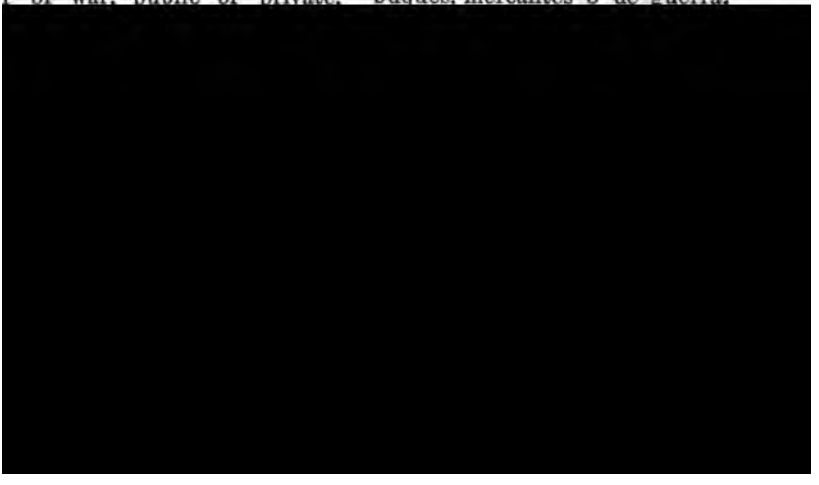
IX. It is likewise agreed, that it shall be wholly free for all merchants, commanders of ships, and other subjects or citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandize, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; they being, in all these cases, to be treated as subjects or citizens of the country in which they reside or are conducting their business, and to be subject to the laws of that country.

X. Whenever the citizens of either of the Contracting Parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or of war, public or private,

tados buques Británicos y buques de Nicaragua respectivamente.

IX. Se conviene además en que todos los comerciantes, comandantes de buques y otros súbditos y ciudadanos de ambos paises, tendrán entera libertad de manejar sus propios negocios, por si ó por medio de agentes, en todos los puertos y lugares sujetos á la jurisdiccion de uno ú otro, asi con respecto á la consignacion y venta de sus géneros y mercancias, por mayor ó menor, como á la carga, descarga, y despacho de sus buques; en todos estos casos deberán ser tratados como súbditos ó ciudadanos del pais en que residen ó conducen sus negocios, y estarán sujetos á las leyes del mismo pais.

X. En cualquier tiempo que los ciudadanos de cualquiera de las Partes Contratantes sean forzados á buscar refugio ó asilo en las riveras, bahias, puertos, ó dominios de la otra, con sus buques, mercantes ó de guerra,



other, such ship or vessel, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize which shall be saved therefrom, or the produce thereof, if sold, shall be faithfully restored to the owners, upon being claimed by them or by their duly authorized agents; and if there are no such owners or agents on the spot, then the said ships or parts of ships, furniture, appurtenances, goods, and merchandize, or the proceeds thereof, if sold, as well as all the papers found on board such wrecked ship or vessel, shall be delivered to the British Consul or Vice-Consul, or to the Consul or Vice-Consul of the Republic of Nicaragua, in whose district the wreck may have taken place, upon being claimed by him, and on his giving a receipt or acknowledgment for the same; and upon payment by such Consul, Vice-Consul, owners, or agents, of only the expenses incurred in the preservation of the property, and of the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel. The charge for such salvage or other expenses shall be made and settled immediately, subject to such right of appeal on the part of the person paying the same as may exist in the respective countries. The goods and merchandize saved from the wreck shall not be subject to duties, unless cleared for consumption; in which case they shall be liable

otra, dichos buques, ó cualquiera parte de ellos, y todo mueble y adjunto que les pertenezcan, y todos los generos y mercancias que se salvaren, ó sus valores, si se vendiesen, serán fielmente restituidos á los propietarios, cuando sean reclamados por ellos ó por sus agentes debidamente autorizados; y si no hubiese tales propietarios ó agentes en el lugar, dichos buques ó partes de ellos, muebles, adjuntos, géneros y mercancias, ó sus valores, si se vendiesen, asi como todos los papeles encontrados abordo de los buques arruinados, serán entregados al Cónsul ó Vice-Cónsul Británico, ó al Cónsul ó Vice-Cónsul de la República de Nicaragua, en cuyo distrito haya acontecido la ruina, cuando los reclamen y den de ello recibo ó constancia; y cuando el Cónsul, Vice-Cónsul, propietarios ó agentes paguen las solas expensas hechas en la preservacion de la propiedad, y las expensas de salvamento ú otras que se habrian pagado en caso semejante de ruina de un buque nacional. El cargo ú otras expensas por un salvamento de esta naturaleza se hará y arreglará immediatamente, quedando sujeto al derecho de apelacion en favor de la persona que haya de pagar, en la forma que exista en los respectivos paises. Los géneros y mercancias que se salven de la ruina no pagarán derecho, sino en el caso de que hubiesen sido destinados para consumo; mas entonces solo pagarán aquellos que habrian pagado si hubiesen

only to the same duties as if they had been imported in a national vessel.

XII. The subjects and citizens of either of the two Contracting Parties in the territories of the other shall be at full liberty to acquire, possess, and dispose of, whether by purchase, sale, donation, exchange, marriage, testament, succession *ab intestato*, or in any other manner whatever, every description of property which the laws of the country may permit any foreigners, of whatsoever nation, to hold. Their heirs and representatives may succeed to and take possession of such property, either in person or by agents acting on their behalf, in the ordinary form of law, in the same manner as subjects or citizens of the country; and in the absence of such heirs and representatives, the property shall be treated in the same manner as the like property belonging to a subject or citizen of the country under similar circumstances.

sido importados en buque nacional.

XII. Los subditos y ciudadanos de cualquiera de las dos Partes Contratantes, en los territorios de la otra, tendrán plena libertad de adquirir, poseer, y disponer, por compra, venta, donacion, cambio, casamiento, testamento, sucesion *ab intestato*, ó de otra manera cualquiera, toda clase de propiedad que las leyes del pais permitan tener á los extrangeros de cualquier nacionalidad. Sus herederos y representantes pueden suceder, y tomar posesion de la propiedad por si ó por medio de agentes que obren en su nombre, en la forma ordinaria de ley, de la misma manera que los súbditos ó ciudadanos del pais; y en ausencia de herederos y representantes, la propiedad será tratada de la misma manera que propiedad semejante perteneciente á un súbdito ó ciudadano del pais, bajo iguales circunstancias.



duty as foreigners, and without having to pay any other or higher duties than those to which subjects or citizens of the country are liable.

XIII. Both Contracting Parties promise and engage formally to give their special protection to the persons and property of the subjects or citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice, for their judicial recourse, on the same terms which are usual and customary with the native subjects or citizens of the country; for which purpose they may either appear in proper person, or employ, in the prosecution or defence of their rights, such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions or sentences of the tribunals in all cases which may concern them, and shall enjoy in such cases all the rights and privileges accorded to native subjects or citizens.

XIV. In the event of any subject or citizen of either of the two Contracting Parties dying without will or testament in the dominions or territories of the other Contracting Party, or in the absence of lawful heirs or

tacion á pagar derecho alguno por ser extrangeros; y sin tener que pagar otros ó mas crecidos derechos que aquellos á que estan sujetos los súbditos ó ciudadanos del pais.

XIII. Ambas Partes Contratantes prometen y se empeñan formalmente á dar su especial proteccion á los súbditos y ciudadanos de cada una, transeuntes ó residentes, en sus personas y propiedades, y en todas las ocupaciones que tengan en los territorios sujetos á la jurisdiccion de una ú otra, dejándoles abiertos y libres los tribunales de justicia para sus recursos judiciales, en los mismos terminos que se usa y acostumbra con los súbditos ó ciudadanos naturales; para cuyo fin pueden ellos aparecer por si, ó emplear, en la prosecucion ó defensa de sus derechos, los abogados, procuradores, notarios, agentes y factores que juzguen conveniente en sus asuntos judiciales; y esos ciudadanos ó agentes tendrán libre oportunidad de estar presentes á las decisiones ó sentencias de los tribunales en todos los casos que les concierna, y en tales casos gozarán de todos los derechos y privilegios acordados á los súbditos ó ciudadanos naturales.

XIV. En el caso de que algun súbdito ó ciudadano de cualquiera de las dos Partes Contratantes muera en los dominios ó territorios de la otra, sin dejar testamento, ó en ausencia de herederos ó representantes le-

representatives, the Consul-General, Consul, or Acting Consul of the nation to which the deceased may belong, shall, so far as the laws of each country will permit, have the right, after a duly made and attested inventory has been signed by him, to take possession and charge of the property which the deceased may have left, for the benefit of his lawful heirs and creditors, giving immediate notice of the death to the authorities of the country.

XV. The subjects of Her Britannic Majesty residing in the Republic of Nicaragua, and the citizens of the Republic of Nicaragua residing in the dominions of Her Britannic Majesty, shall be exempted from all compulsory military service whatsoever, whether by sea or land, and from all forced loans, or military exactions or requisitions; and they shall not be compelled, under any pretext whatsoever, to pay any ordinary

gales, el Cónsul-General, Cónsul, ó el que haga de Cónsul de la nacion á que el difunto pertenezca, tendrá derecho, en tanto que las leyes del pais lo permitan, y despues de haber firmado un inventario debidamente hecho y atestado, de tomar posesion y encargarse, en beneficio de los herederos y acreedores legales, de la propiedad que el difunto haya dejado, dando pronta noticia de la muerte á las autoridades del pais.

XV. Los súbditos de Su Magestad Brtánica residentes en la República de Nicaragua, y los ciudadanos Nicaragüenses residentes en los dominios de Su Magestad Británica, estarán exentos de todo servicio militar obligatorio, cualquiera que sea, por mar ó por tierra, y de todos los emprestitos forzosos, exacciones ó requerimientos militares; y no se les obligará, bajo ningun pretexto, á pagar otras ó mas crecidas cargas, ordinarias ó ex-



service any such deserters, upon being required by the other Party to do so.

And it is further agreed, that if any of the crew of any merchant-vessel of either Contracting Party shall desert from such vessel within any port in the territory of the other Party, the authorities of such port and territory shall be bound to give every assistance in their power for the apprehension of such deserters, on application to that effect being made by the Consul of the Party concerned, or by the deputy or representative of the Consul: and any person knowingly protecting or harbouring such deserters shall be liable to punishment.

XVII. British subjects residing in the territories of the Republic of Nicaragua shall enjoy the most perfect and entire liberty of conscience, without being annoyed, molested, or disturbed on account of their religious belief. Neither shall they be annoyed, molested, or disturbed in the proper exercise of their religion, in private houses, or in the chapels or places of worship appointed for that purpose, provided that in so doing they observe the decorum due to Divine worship, and the respect due to the laws of the country. Liberty shall also be granted to bury British subjects who may die in the territories of the Republic of Nicaragua, in convenient and adequate places, to be appointed and established by themselves for that purpose, with

servicios á los desertores, cuando sea requerida por la otra para hacerlo asi.

Y ademas es entendido que si algun individuo de la tripulacion de algun buque mercante de cualquiera de las Partes Contratantes desertase de dicho buque en puerto del territorio de la otra Parte, las autoridades del puerto y territorio serán obligadas á dar toda la asistencia que esté en su poder para la captura del desertor, cuando el Cónsul ó Vice-Cónsul, ó el diputado ó representante del Cónsul de la Parte interesada, las haga peticion á ese fin: y cualquiera persoha que á sabiendas proteja ó resguarde á esa clase de desertores, será sujeta á castigo.

XVII. Los súbditos Británicos residentes en los territorios de la República de Nicaragua, disfrutarán de la mas perfecta y completa libertad de conciencia, sin ser incomodados, molestados, ó perturbados por razon de su creencia religiosa. No se les incomodará, molestará, ó perturbará en el legitimo ejercicio de su religion en casas particulares, ó en las capillas ó lugares de adoracion designados con ese objeto, con tal que al hacerlo observen el decoro debido al culto Divino, y el respeto á las leyes del pais. Tambien será permitido enterrar á los súbditos Británicos que mueran en los territorios de la República de Nicaragua, en lugares convenientes y adecuados, que, con ese fin, deben ser señalados y establecidos por ellos mismos, con conocimiento de las

the knowledge of the local authorities, or in such other places of sepulture as may be chosen by the friends of the deceased; nor shall the funerals or sepulchres of the dead be disturbed in any wise or upon any account.

In like manner, the citizens of Nicaragua shall enjoy within the dominions of Her Britannic Majesty a perfect and unrestrained liberty of conscience, and of exercising their religion within private houses, or in the chapels or places of worship appointed for that purpose, agreeably to the laws of those dominions.

XVIII. For the better security of commerce between the subjects and citizens of the two High Contracting Parties, it is agreed that if at any time any rupture, or any interruption of friendly intercourse, should unfortunately take place between the two Contracting Parties, the subjects or citizens of either of them, established in the territ-

autoridades locales, ó en los otros lugares de sepultura que elijan los amigos del finado; ni se perturbarán los funerales ó sepulcros de los muertos, en ningun modo ni por ningun motivo.

Asimismo los ciudadanos Nicaragüenses disfrutarán en los dominios de Su Magestad Británica de perfecta é ilimitada libertad de conciencia, y de ejercer su religion en casas particulares, ó en las capillas ó lugares de culto designados con ese fin, conforme á las leyes de aquellos dominios.

XVIII. Para la mayor seguridad del comercio entre los súbditos y ciudadanos de las dos Altas Partes Contratantes, se conviene en que si en algun tiempo ocurriese por desgracia alguna ruptura ó interrupcion de relaciones amistosas entre las dos Partes Contratantes, á los súbditos ó ciudadanos de cada una, establecidos en los territorios de



remain and continue in the exercise of the said trade or occupation, notwithstanding the interruption of friendship between the two countries, in the free enjoyment of their personal liberty and property, so long as they behave peaceably and observe the laws; and their goods and effects, of whatever description they may be, whether in their own custody or entrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other charges or demands than those which may be made upon the like effects or property belonging to native subjects or citizens. In the same case, debts between individuals, public funds, and the shares of Companies, shall never be confiscated, sequestered, or detained.

dicho comercio ú ocupacion, sin embargo de la interupcion de amistad entre los dos paises, en libre goco de su libertad personal y de su propiedad, en tanto que se conduzcan pacificamente y observen las leyes; y sus géneros y efectos, de cualquiera descripcion que sean, ya esten en su propia custodia ó confiados á individuos ó al Estado, no estarán sujetos á embargo ó secuestro, ni á otras cargas ó demandas que aquellas que se hagan sobre efectos ó propiedades semejantes, pertenecientes á súbditos ó ciudadanos naturales. En el mismo caso, la deudas entre individuos, fondos públicos, y las acciones de Compañias, jamas se confiscarán, secuestrarán, ni detendrán.

XIX. It shall be free for each of the two Contracting Parties to appoint Consuls for the protection of trade, to reside in the dominions and territories of the other Party; but before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the Contracting Parties may except from the residence of Consuls such particular places as either of them may judge fit to be excepted.

The Diplomatic Agents and Consuls of each of the two High Contracting Parties in the dominions or territories of the other, shall enjoy whatever privileges, exemptions, and immunities are

XIX. Cada una de las Partes Contratantes podrá nombrar Cónsules para la proteccion del comercio, que residan en los dominios ó territorios de la otra Parte; pero antes de que algun Cónsul obre como tal, deberá ser aprobado y admitodo en la forma usual, por el Gobierno á que es enviado; y cada una de las Partes Contratantes puede exceptuar de la residencia de Cónsules los lugares particulares que juzgue conveniente exceptuar.

Los Agentes Diplomáticos y los Cónsules de las dos Partes Contratantes, en los dominios y territorios de la otra, gozarán de todos los privilegios, exenciones, é inmunidades que esten con-

or shall be granted there to agents of the same rank belonging to the most favoured nation.

XX. The Republic of Nicaragua hereby grants to Great Britain, and to British subjects and property, the right of transit between the Atlantic and Pacific Oceans, through the territories of that Republic, on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both parties, and their respective subjects and citizens; the Republic of Nicaragua, however, reserving its full and complete right of sovereignty over the same; and, generally, the Republic of Nicaragua engages to grant to Great Britain and to British subjects the same rights and privileges, in all respects, in regard to the transit and the

cedidas ó que se concedan en adelante á los agentes del mismo rango pertenecientes á la nacion mas favorecida.

XX. La República de Nicaragua concede por el presente á la Gran Bretaña y à los súbditos y propiedades Británicas, el derecho de transito entre los Oceanos Atlantico y Pacifico al traves de los territorios de la República, por cualesquiera rutas de comunicacion, naturales ó artificiales, ya sea por tierra ó por agua, que actualmente ó en lo sucesivo existan ó se construyan bajo la autoridad de Nicaragua, para ser usadas y gozadas en la misma manera y en iguales terminos por ambas partes y sus respectivos súbditos y ciudadanos. Mas la República de Nicaragua se reserva su pleno y completo derecho de soberania sobre las mismas; y en general la República de Nicaragua se compromete á conceder á la Gran Bretaña y á los súbditos Británicos los mismos derechos y privi-

rantee the neutrality and innocent use of the same. Her Britannic Majesty also agrees to employ her influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua, on its part, undertakes to establish two free ports, one at each of the extremities of the communication aforesaid, on the Atlantic and Pacific Oceans. At these ports, no tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of Great Britain, or on any effects or merchandize belonging to subjects of Great Britain, or of any other country, intended *bonâ fide* for transit across the said route of communication, and not for consumption within the Republic of Nicaragua. Her Britannic Majesty shall also be at liberty, on giving notice to the Government or authorities of Nicaragua, to carry troops, provided they are destined for a British possession, or places beyond sea, and are not intended to be employed against Central American nations friendly to Nicaragua, and munitions of war, and also to convey criminals, prisoners, and convicts, with their escorts, in her own vessels or otherwise, to either of the said free ports, and shall be entitled to their conveyance between them, without obstruction by the authorities of Nicaragua, and without any charges or tolls whatever for their transportation, on any of the said routes of

rantizar la neutralidad y el uso inocente de las mismas. Su Magestad Británica tambien conviene en emplear su influencia con otras naciones para inducirlas á garantizar esas neutralidad y proteccion. Y la República de Nicaragua, por su parte, se compromete á establecer un puerto libre en cada extremidad de las rutas antedichas de comunicacion entre los Oceanos Atlantico y Pacifico. En estos puertos el Gobierno de Nicaragua no impondrá ni exigirá derechos de tonelada ú otros á los buques de la Gran Bretaña, ó á cualesquiera efectos ó mercancias pertenecientes á súbditos Británicos ó de cualquiera otro pais, destinados *bonâ fide* á transitar por las dichas rutas de comunicacion, y no para consumirse en el territorio de la República de Nicaragua. Su Magestad Británica tendrá tambien libertad, dando noticia al Gobierno ó autoridades de Nicaragua, de llevar tropas y municiones de guerra, con tal que las tropas sean destinadas á una posesion Británica ó á puntos de ultramar, ó que no se intente emplearlas contra naciones Centro-Americanas, amigas de Nicaragua; asi como de conducir criminales, prisioneros, y convictos, y sus escoltas, en sus propios buques ó de otra manera, á cualquiera de los puertos libres, y podrá trasportarlos entre ellos sin obstruccion por las autoridades de Nicaragua, y sin ningunas cargas ó derechos por su trasporte en cualquiera de las

communication. And no higher or other charges or tolls shall be imposed on the conveyance or transit of the persons and property of subjects of Great Britain, or of the subjects and citizens of any other country, across the said routes of communication, than are or may be imposed on the persons or property of citizens of Nicaragua.

And the Republic of Nicaragua concedes the right of the Postmaster-General of Great Britain to enter into contracts with any individuals or companies to transport the mails of Great Britain along the said routes of communication, or along any other routes across the Isthmus, in closed bags, the contents of which may not be intended for distribution within the said Republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed

dichas rutas de comunicacion. Y no se impondrán otras ó mas altas cargas ó derechos por el trasporte ó transito de las personas y propiedades de súbditos de la Gran Bretaña, ó de súbditos ó ciudadanos de cualquiera otro pais, al traves de las dichas rutas de comunicacion, que los impuestos ó que en lo sucesivo se impongan á las personas ó propiedades de los ciudadanos de Nicaragua.

Y la República de Nicaragua concede al Administrador General de Correos de la Gran Bretaña el derecho de celebrar contratos con cualesquiera individuos ó compañias para trasportar las malas de la Gran Bretaña por las dichas rutas de comunicacion, ó por cualesquiera otras rutas al traves del Ystmo, en balijas cerradas, cuyo contenido no puede ser destinado para distribuirse en la República de Nicaragua, libres de la imposicion de toda taxa ó impuesto por el Gobierno de Nicaragua; pero

will employ the requisite force for that purpose; but upon failure to do this for any cause whatever, Her Britannic Majesty may, with the consent or at the request of the Government of Nicaragua, or of the Minister thereof at London or Paris, or of the competent legally-appointed local authorities, civil or military, employ such force for this and for no other purpose; and when, in the opinion of the Nicaraguan Government, the necessity ceases, such force shall be immediately withdrawn.

In the exceptional case, however, of unforeseen or imminent danger to the lives or properties of British subjects, Her Majesty's forces are authorized to act for their protection without such previous consent having been obtained.

XXIII. It is understood, however, that Her Britannic Majesty, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intends that the protection and guarantee are granted conditionally, and may be withdrawn if Her Britannic Majesty should deem that the persons or Company undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this Treaty, either by making unfair discriminations in favour of the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails,

rutas, empleará la fuerza que se requiera para ese objeto; pero si dejase de hacerlo por cualquier causa, Su Magestad Británica puede, con consentimiento ó á solicitud del Gobierno de Nicaragua ó de su Ministro en Lóndres ó Paris, ó de las competentes autoridades locales, civiles ó militares, legalmente designadas, emplear dicha fuerza con este y no con otro objeto; y cuando la necesidad cese, á juicio del Gobierno de Nicaragua, dicha fuerza sera inmediatamente retirada.

Sin embargo, en el caso excepcional de imprevisto ó inminente peligro de la vida ó propiedades de subditos Británicos, las fuerzas de Su Magestad están autorizadas para darles su proteccion, sin haber obtenido el previo consentimiento.

XXIII. Pero queda entendido que Su Magestad Británica, al acordar proteccion á las rutas de comunicacion, y garantizar su neutralidad y seguridad, siempre intenta que la proteccion y garantia sean concedidas condicionalmente, y que pueden ser retiradas si Su Magestad Británica entendiese que las personas ó compañia que las emprenden ó manejan, adoptan ó establecen regulaciones concernientes al trafico que sean contrarias al espiritu ó intencion de este Tratado, ya haciendo injustas distinciones en favor del comercio de cualquiera nacion ó naciones, ó imponiendo opresivas exacciones ó irrazonables derechos sobre las malas, pasageros,

passengers, vessels, goods, wares, merchandize, or other articles. The aforesaid protection and guarantee shall not, however, be withdrawn by Her Britannic Majesty without first giving 6 months' notice to the Republic of Nicaragua.

XXIV. And it is further understood and agreed that, in any grant or contract which may hereafter be made or entered into by the Government of Nicaragua, having reference to the interoceanic routes above referred to, or any of them, the rights and privileges granted by this Convention to Her Britannic Majesty and to British subjects shall be fully protected and reserved; and if any such grant or contract now exist of a valid character, it is further understood that the guarantee and protection of Her Britannic Majesty stipulated in Article XXI of this Treaty shall be held inoperative and void, until the holders of such grant or contract shall

buques, géneros, efectos, mercancias, ú otros articulos. Mas la predicha proteccion y garantia no serán retiradas por Su Magestad Británica sin dar noticia al Gobierno de Nicaragua con 6 meses de anticipacion.

XXIV. Y además queda entendido y convenido, que en cualquier concesion ó contrato que en lo de adelante haga ó concluya el Gobierno de Nicaragua, relativos á las rutas interoceanicas arriba dichas, ó á alguna de ellas, serán plenamente protegidos y reservados los derechos y privilegios concedidos por esta Convencion á Su Magestad Británica y á los súbditos Británicos; y queda asimismo entendido, que si existiese ahora alguna concesion o contrato de esta naturaleza y de caracter valido, la garantia y proteccion de Su Magestad Británica, estipuladas en el Articulo XXI de este Tratado, se considerarán sin fuerza y nulas, hasta que los



contracts.

XXV. After 10 years from the completion of a canal, railroad, or any other route of communication, through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no Company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than 15 per cent. per annum, or at that rate, to its stockholders, from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of 15 per cent. per annum.

XXVI. It is understood that nothing contained in this Treaty shall be construed to affect the claim of the Government and citizens of the Republic of Costa Rica to a free passage, by the San Juan river, for their persons and property, to and from the ocean.

XXVII. The present Treaty shall remain in force for the term of 20 years from the day of the exchange of ratifications; and if neither Party shall notify to the other its intention of terminating the same, 12 months before the expiration of the 20 years stipulated above, the said Treaty shall continue binding on both parties beyond the said 20 years, until 12 months from the time that one of the Parties may notify to

terpretarse como que afirma ó niega la validez de alguno de dichos contratos.

XXV. Despues de 10 años de la conclusion de un canal, ferro-carril, ó cualquiera otra via de comunicacion, del Oceano Atlantico al Pacifico, á traves del territorio de Nicaragua, ninguna Compañia que haya construido dicha via, ó que esté en posesion de ella, podrá nunca dividir á sus accionistas, pago de dividendos, directa ó indirectamente, por emision de nuevas acciones, ó de otro modo, mas de un 15 por ciento anual, ó en aquella proporcion, por impuestos colectados en aquella via; pero cuando se descubra que estos impuestos renden una utilidad mayor que esta, se reducirán á la regla fija de 15 por ciento anual.

XXVI. Queda entendido que nada de lo contenido en este Tratado deberá entenderse que afecta el reclamo del Gobierno y ciudadanos de la República de Costa Rica de un libre pasage de sus personas y propiedades por el Rio San Juan del oceano y para el oceano.

XXVII. El presente Tratado permanecerá en fuerza por el termino de 20 años desde el dia del cange de las ratificaciones; y si ninguna de la dos Partes notificase á la otra su intencion de terminarle, 12 meses antes de la expiracion de dichos 20 años, el Tratado continuará obligando á ambas Partes mas allá de los referidos 20 años, hasta 12 meses despues del tiempo en que una de las Partes notifique á la otra

the other its intention of terminating it.

XXVIII. The present Treaty of Friendship, Commerce, and Navigation shall be ratified, and the ratifications shall be exchanged at London as soon as possible within 6 months from this date.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Managua, this 11th day of February, in the year of our Lord, 1860.

su intencion de terminarle.

XXVIII. El presente Tratado de Amistad, Comercio, y Navegacion, será ratificado, y las ratificaciones cangeadas en Londres, tan pronto como sea posible dentro de 6 meses de esta fecha.

En testimonio de lo cual, los respectivos Plenipotenciarios le han firmado, y sellado con sus respectivos sellos.

Hecho en Managua, el 11 de Febrero, del año N.S. 1860.

(L.S.) CHARLES LENNOX WYKE.
(L.S.) PEDRO ZELEDON.

CORRESPONDENCE between Great Britain and The United States, respecting Central America.—1858–1860.

[Continued from Vol. XLVIII. Page 630.]*

No. 131.—*Lord Napier to the Earl of Malmesbury.*—(*Rec. Jan.* 17.)

MY LORD, *Washington, January* 2, 1859.

GENERAL CASS informed me this morning, at the President's

[redacted]

which that functionary is informed that Her Majesty's vessels-of-war stationed at Greytown will interfere to prevent the landing at that port of any fresh hostile expeditions against Nicaragua, should the Government of that Republic request the Commanders of such vessels so to interfere.

This intelligence has caused great satisfaction here.

These Governments have always considered that such interference on our part was directly called for by the stipulations of the Bulwer-Clayton Treaty.

The Earl of Malmesbury. C. LENNOX WYKE.

P.S—Since writing the above, I find that the letter alluded to was addressed to Don José Marcoleta, and not to Señor San Martin, as I had at first supposed.

No. 133.—*Sir W. G. Ouseley to the Earl of Malmesbury.* (*Received February* 2, 1859.)

MY LORD, *Leon, December* 28, 1858.

I ARRIVED at Realejo, on board Her Majesty's sloop *Vixen*, on the 16th instant. I had been informed that the President, General Martinez, was to be there, as his Excellency has annually to make a progress through the country, and visit all the different departments. It happened, fortunately, that immediately after I landed General Martinez arrived. I took the opportunity of being introduced to him—of course, privately.

We proceeded, the same day, to Chinandega, whence I wrote officially to ask an audience at an early day, in order to present my credentials, and forwarding a copy of the Queen's letter.

The answer of the Nicaraguan Minister was to the effect that I was to be received at a public audience at Leon, as soon after the arrival there of the President and myself as possible.

The day before yesterday I had the honour of presenting my credential letter. The Government did all in their power to show respect and goodwill to Her Majesty's Mission; sent a carriage for me, and testified much gratification that Her Majesty had been pleased to accredit me as Envoy Extraordinary and Minister Plenipotentiary, and in general terms expressed a readiness to meet the wishes of Her Majesty's Government in every particular.

I am still extremely weak, having been attacked by the fever of the country, and only left my bed to present my credentials; and I am obliged to defer any further report for the next opportunity, as this mail will go to-day. I can only add, that the day after my audience, the President and all his Ministers called on me, and used very flattering and friendly language.

I have the honour to transmit a copy of the remarks that I addressed to the President on presenting my letter.

I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Sir W. G. Ouseley's Speech on delivering Her Majesty's Letter to the President of Nicaragua.*

THE Queen, my august Sovereign, has been graciously pleased to entrust to me the gratifying task of cementing the good understanding, and evincing the feelings of friendly interest that have ever animated Great Britain towards the State over which your Excellency so ably presides, by concluding a Treaty calculated to produce the best effects.

It would have been to me at any time a pleasing duty to contribute to such an object; but my efforts will be the more gladly employed at a moment when the interests of humanity and policy call for decided action on the part of civilized and commercial nations, to defend this and neighbouring Republics from the piratical attacks of lawless men, the effects of whose ruthless barbarism it is lamentable to witness.

The acts of those misguided adventurers have excited just indignation in the breasts of enlightened rulers of the most powerful maritime nations on both sides of the Atlantic, who have resolved that such enormities shall no longer be tolerated.

All civilized nations have an interest in keeping uninterrupted the free passage so liberally granted by Nicaragua and the neighbouring States across the territories which Providence has placed under their independent and lawful sovereignty.

It is for the advantage of all that this independence should be



I esteem myself fortunate in finding among the members of the present Administration of this country, so many men of distinguished merit, and especially in having to treat with a Government at the head of which is your Excellency.

No. 134.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, February* 12, 1859.

I RECEIVED on the 2nd instant your despatch of the 28th December, reporting your arrival at the capital of Nicaragua.

The accounts which I received, together with that despatch, of the serious illness with which you had been visited, and of the general state of your health, occasioned me much regret; and I need scarcely assure you that nothing could be further from the wish of Her Majesty's Government than that you should prolong your stay in Central America, if your doing so should be likely to be injurious to you. Her Majesty's Government, indeed, feel convinced that with the strong impression that you must have of the importance of the negotiation with which you are entrusted being speedily concluded, you would not hesitate for a moment at delegating to Mr. Wyke the duty of continuing it in virtue of the authority conveyed to you in that respect by my despatch of the 16th of December last, if you should feel that the state of your health prevented you from giving your undivided attention to it, and from pushing it to its immediate completion. A variety of circumstances has caused a loss of time which it was most desirable to avoid, for the difficulty of adjusting these questions connected with Central America is liable to be increased from day to day by changes of feeling in the countries themselves and in The United States, and by events which human foresight cannot anticipate or control.

You will, therefore, understand that my object in addressing to you my present despatch is to set you quite at ease in regard to transferring to Mr. Wyke the further conduct of the negotiation with Nicaragua and Costa Rica if the state of your health should make you feel yourself unequal to the task; and you may be assured that, if you do so, Her Majesty's Government will only attribute your conduct to a high sense of duty on your part which will have induced you to sacrifice your own personal feelings out of regard for the paramount interests of your country. I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 135.—*The Earl of Malmesbury to Lord Lyons.*

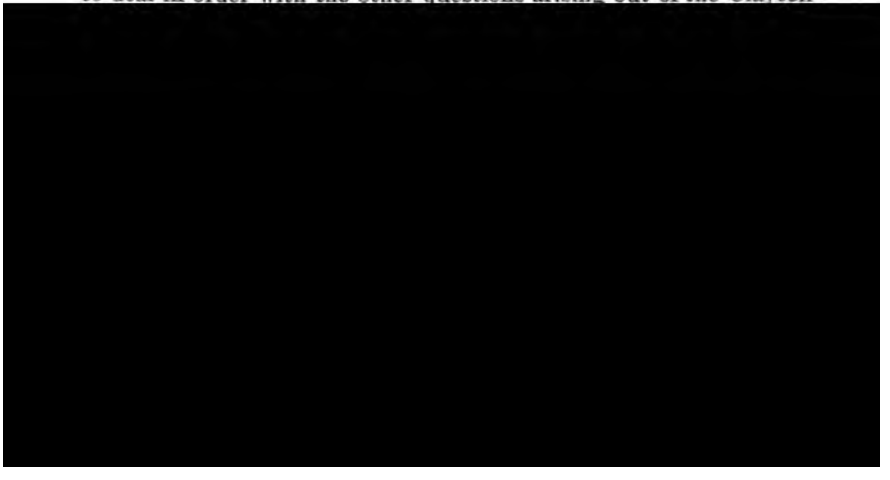
(Extract.) *Foreign Office, February* 15, 1859.

As regards the questions more immediately bearing on the relations between this country and The United States, Her Majesty's

Government are happy to think thet those arising out of the interpretations of the Clayton-Bulwer Treaty are now in a fair way to be set at rest. You will find in the archives of your Mission ample details on this subject; and it is sufficient for my present purpose shortly to explain to you the footing on which the two countries stand in regard to these matters.

After the refusal of the American Senate to ratify in such a shape as could be accepted by this country the Treaty concluded between the Earl of Clarendon and Mr. Dallas on the 17th of October, 1856, and the subsequent rejection by the President of the overture made by Her Majesty's late Government for further negotiation, it was felt that the only chance of obviating further irritating discussion in regard to the interpretation of the Treaty, was to attempt to settle the questions in which the Governments of England and that of The United States were at variance, not indirectly by negotiation between them, but by separate negotiations with the Powers on whose interests those questions were supposed to have direct bearing. Her Majesty's late and present advisers both concurred in this policy, and both entrusted to Sir William Ouseley the duty of giving effect to it; with this difference, however, that the former were disposed to deal with all the points at once, whereas it has appeared to the latter most advisable to deal with them separately. Sir William Ouseley is, accordingly, now engaged in negotiations with Nicaragua which, if successful will settle all the debateable points respecting the Mosquito Indians, as far as Nicaragua is concerned, and will contribute to place on a satisfactory footing the interoceanic communication through that country.

When this is done, Her Majesty's Government will be prepared to deal in order with the other questions arising out of the Clayton-



part of desperate men to obtain a footing in Nicaragua, and to plunge that country again into the anarchy and confusion from which it has so lately been relieved. Her Majesty's Government gladly admit that the efforts of the President of The United States have laudably been directed to the repression of any expeditions for such a purpose which might be undertaken from the shores of the Union. But that they were well aware of the difficulties which in this respect the President had to contend with, and they felt that they could not safely rely upon his efforts alone for checking fresh irruptions of marauders into the territories of Nicaragua. They therefore determined to send an adequate British force to Greytown, and also to the Pacific Coast of Nicaragua, with instructions to co-operate with the forces of that State in repelling hostile inroads. The nature of those instructions was at the time fully explained to the Cabinet of Washington, and Her Majesty's Government have every reason to hope that the respective squadrons, though not acting avowedly in concert, will by their separate efforts effectually prevent any external aggression on the territory of Nicaragua, and carry out their respective instructions without any interruption of the good feeling which Her Majesty's Government are so anxious to see exist between the officers of the respective naval services.

The Government of The United States need not entertain any jealousy in respect to any supposed design on the part of this country with reference to the transit routes between the two oceans. Her Majesty's Government desire only that such routes should be promptly made and efficiently maintained for the general benefit of the commerce of all the world; and they are perfectly indifferent by what private agency those ends are accomplished. They seek for British commerce no exclusive advantage, but they certainly expect to be admitted to share equally with all other nations whatever facilities of transit through Central America may be obtained by negotiation or otherwise.

Lord Lyons. MALMESBURY.

No. 136.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received February* 15.)

My Lord, *Leon, January* 3, 1859.

In the hope of being enabled to forward this despatch by the American steamer expected about this time to touch at Realejo, I send a messenger from hence to Chinandega.

Don Pedro Zeledon, Minister for Foreign Relations, was invested by the President, General Martinez, immediately after my formal reception by his Excellency (reported in my despatch of the 28th December last) with full powers to act on the part of

Nicaragua for the conclusion of the Treaties, drafts of which I had the honour to receive when in The United States from your Lordship.

Señor Jeronimo Perez was at the same time appointed by the President Secretary to assist Señor Zeledon. Señor Perez was Secretary to General Xeres' Mission, and I had frequent opportunities of conversing with him when in The United States.

We have had several meetings, and the Nicaraguan Minister has proposed some alterations and modifications, with two exceptions, of an unimportant and unobjectionable character.

Our conferences have been interrupted for a day or two by the absence of Don Pedro Zeledon, and the necessity for putting in official form certain proposed additions to the Treaty, which I may, unless modified, have to reject.

The President and Cabinet are now at Managua, whither I shall have to proceed, probably in the course of this week.

I have the honour to forward copies of a note from the Nicaraguan Minister, and of my reply, respecting the Mosquito question. I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure* 1.)—*Don Pedro Zeledon to Sir W. G. Ouseley.*

M. LE MINISTRE, (Translation.) *Leon, December* 28, 1858.

AT a time when the Governments of Great Britain and Nicaragua propose to conclude a Treaty of Friendship and most intimate relations, a pre-existing question between the two Governments cannot be passed over without it appearing that the one Government assents to and recognises the claim alleged by the other.



(*Inclosure* 2.)—*Sir W. G. Ouseley to Don Pedro Zeledon.*

SIR, *Leon, January* 1, 1859.

WHEN I had the honour of receiving your Excellency's note of the 28th ultimo, I was too ill to answer it immediately.

Your Excellency is quite right in supposing that I am authorized to negotiate on the question of Mosquitia. But it is for many reasons advisable that the general Treaty of Friendship, Commerce, and Navigation, should first be definitively agreed upon, and that the subject of the Mosquito territory should be treated separately.

That a mention of the claims urged by Nicaragua to the territory in question has lately been introduced into a new Constitution, although never incorporated in the original Constitution of this country, cannot, as your Excellency will readily perceive, affect this question, as regards Her Majesty's Government.

I have, however, no doubt that the proposals on this subject which I have been instructed to make on the part of Her Majesty's Government to that of Nicaragua, and which I shall take the first opportunity of communicating to your Excellency, are such as will lead to a final and amicable settlement of the whole question, satisfactory alike to both Governments.

In the meantime it is so urgent that the General Treaty should be signed without delay, that neither the adjustment of the Mosquito claims, nor the completion of the Postal Treaty, which I had the honour verbally to mention to your Excellency, should be allowed to retard its completion. I request, &c.

Don Pedro Zeledon. W. G. OUSELEY.

No. 137.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

(Extract.) *Foreign Office, February* 16, 1859.

I HAVE received your despatches of the 3rd of January.

From the meagre report which you give of your intercourse with the Nicaraguan Plenipotentiary, Her Majesty's Government are unable to judge of the prospects of your negotiation, and still less of the motives which have induced you, as appears from your correspondence with M. Zeledon, to make the conclusion of a Convention respecting Mosquitia, which was the primary object of your mission, subordinate to that of the general Treaty of Friendship and Commerce, which was a matter of secondary importance, as far as the main difficulties in regard to Central America with which Her Majesty's Government have to contend, are concerned.

By the course which you have adopted you almost necessarily provoked the inquiry addressed to you by M. Zeledon, which it was desirable that you should forestall, and may very possibly have rendered it more difficult to conclude a satisfactory arrangement with regard to Mosquitia when the Nicaraguan Government, having

made their Treaty with you on the general question, will no longer have an interest in being moderate in regard to the particular one in the hopes of, by such moderation, disposing you favourably towards any suggestions they might put forward with the view of obtaining support in their discussions with The United States.

Be that as it may, however, Her Majesty's Government wish you to understand that the questions of the cession of the protectorate of Mosquito and of the settlement of the status of Greytown, in a manner honourable to this country, are those to which they attach the greatest importance, and they desire that you should abide by the literal terms of the draft of the Convention on that point which has been furnished to you, and sign no general Treaty with Nicaragua until such Convention respecting Mosquitia is signed. The first object of Her Majesty's Government is to settle the latter question, so as to obviate any further discussion with the Government of The United States on the interpretation of the Clayton-Bulwer Treaty as affecting the claims of Nicaragua to Mosquito; for it is quite clear that no arrangement can be made in regard to the transit route, which shall obviate any further discussion between this country and The United States, as long as the question respecting the Mosquito protectorate remains in its present state. The Treaties which you are charged to negotiate must be looked upon as a whole, and inseparable, except in form, and can only be ratified by Her Majesty as such.

Sir W. G. Ouseley. MALMESBURY.

No. 138.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, February* 16, 1859.

In my despatch of the 31st of December last I transmitted to

No. 139.—The Earl of Malmesbury to Mr. Wyke.

(*Extract.*) *Foreign Office, February* 16, 1859.

I HAVE to acquaint you that Her Majesty's Government are desirous of arranging with the Government of Guatemala the question of the limits between the British Settlement of Belize and the Republic of Guatemala, and have determined to entrust this affair to your hands.

The general nature of the arrangement which Her Majesty's Government have to propose was, on the part of my predecessor the Earl of Clarendon, explained to M. de Franisco Martin, the Guatemalan Minister at this Court, in the summer of 1857, by Mr. Stevenson, the late Superintendent of Belize; and as M. de Francisco Martin no doubt rendered to his Government an account of what then took place between him and Mr. Stevenson, you will probably find the Guatemalan Government prepared for what it will be your duty to propose. I inclose, for your information, an extract from a letter from Mr. Stevenson, containing a report of his interview with M. de Francisco Martin on this subject.

Her Majesty's Government are desirous that the limits of British Honduras should be established on the basis of the actual British occupations, as defined in the inclosed Draft of Convention. The proposed line of boundary would commence at the mouth of the River Sarstoon, in the Bay of Honduras, and proceed up the mid-channel of that river to Gracias á Dios Falls; it would then turn northward, and continue by a line drawn direct from Gracias á Dios Falls to Garbutt's Falls on the River Belize; and from Garbutt's Falls due north until it strikes the Mexican frontier.

It will be necessary that you should be exceedingly careful not to except any part of the proposed boundary as a cession from the Republic of Guatemala, or to accept, as it were, a title to any part of the British occupation from the Republic. It has been contended by the Government of The United States that the tract of territory between the Rivers Sibun and Sarstoon forms part of Central America, as having been included in the ancient Kingdom of Guatemala; and that as it is stipulated by the Treaty between Great Britain and The United States of April 19, 1850, commonly called the Bulwer-Clayton Treaty, that neither party shall occupy, fortify, colonize, or assume or excercise dominion over any part of Central America, Great Britain is, by that Treaty, bound to withdraw from the district in question, without reference to her title to it, whether good or bad.

Her Majesty's Government cannot acquiesce in this view of the case, because, at the time of the ratification of the Bulwer-Clayton Treaty, they expressly declared to the Government of The United States that the British Government did not understand the engage-

ments of that Treaty to apply to Her Majesty's Settlement at Honduras, or to its dependencies; and Mr. Clayton, the American Secretary of State, stated, in reply, that the Treaty was not intended by either negotiator to apply to the Settlement of Honduras, the title to which was intended to be left just as it stood previously. But in order to show that in the adjustment of the boundary now contemplated Her Majesty's Government seek for nothing whatever beyond what was in their occupation at the time of the signature of the Bulwer-Clayton Treaty, and is, therefore, covered by the declaration made on the exchange of the ratifications of that Treaty, it is placed on record in the first paragraph of the Draft Convention that the boundary thereinafter defined, is such as existed previously to and on the 1st of January, 1850, that is, previously to the conclusion of the Bulwer-Clayton Treaty. It is, in short, absolutely necessary that the line of boundary to be established by the proposed Convention should be therein described, not as involving any cession or new acquisition from the Republic of Guatemala, but as it is in fact, simply as the definition of a boundary long existing, but not hitherto ascertained.

Articles II, III, IV, and V of the Draft contain arrangements for the appointment of Commissioners to designate and mark out the boundary, and for the general guidance of their proceedings. Article VI stipulates that the channels in the water line of boundary shall be free and open to both parties, and that any islands therein shall belong to that party on whose side of the main channel they may be situated.

In proposing the Draft of Convention to the Government of Guatemala, you will not fail to point out to them that the definitive settlement of the boundary, besides being desirable for the interests



instructions to send it on to you if the necessity for so doing should arise. He will, however, by the present mail be instructed at once to forward the full power to you, and, in virtue of it, you will carry on the negotiation with which Her Majesty's Government have now charged you.

C. L. Wyke, Esq. MALMESBURY.

(*Inclosure* 1.)—*Mr. Stevenson to the Earl of Clarendon.*

(Extract.) *London, June* 24, 1857.

Referring to the letters I have lately received from the Foreign and Colonial Offices, in which have been conveyed to me your Lordship's desires that I should be put in communication with the Minister of Guatemala on the subject of the boundaries between that State and the British possessions in the Bay of Honduras, I have the honour to report that I have twice met Don Francisco Martin on the subject of those boundaries, and explained to him the extent of the British occupations, beyond the original limits of the Spanish Treaties, as they existed on and for many years prior to the 1st of January, 1850, and also the nature and foundation of the British claim to a line of boundary that would cover all such actual occupations and effectually prevent all future trespasses by either party.

In suggesting this claim to a certain and well-defined line of boundary, I explained that many of these actual occupations had existed for periods ranging between 30, 40, and 50 years, and that it would be impossible, from the nature of the country and the scattered possessions of the wood-cutters, to circumscribe each individual occupation, or otherwise to deal with the difficulty of boundary than by including the whole of such possessions within the limits of certain clearly defined lines, drawn within well-known or easily determined points.

This, Don Francisco Martin appeared very readily to concede, although he seemed to doubt whether I had been rightly informed as to the length of possession of many of the occupations in question, south of the Sibun. Upon that point, however, I have no hesitation in saying that I believe all the information I have received and furnished to have been perfectly correct.

I think and hope that the result of all these explanations has been a successful step towards the determination of the boundaries of the British possessions. I reduced to writing the lines which were acquiesced in, subject to some collateral understanding, with which, I informed Don Francisco Martin, I could not deal, but which he was to take some other occasion for bringing before your Lordship.

The general outline of boundary so arranged, is as follows, viz.:

East, from the Hondo to the Sarstoon, on the shores of the Bay of Honduras, including all the bays and islets off the mainland within the same latitude;

South, from the mouth of the Sarstoon to the Gracias á Dios Falls on that river (Señor Martin tells me these Falls have some other known name);

West (south of the River Belize), on a line drawn from Gracias á Dios to Garbutt's Falls, on the River Belize, and (north of the River Belize) on a continuing line drawn due north until it either intersects the Blue Creek branch of the Hondo, or reaches a point in the same parallel as the source or head of Blue Creek, as actual survey will determine; and

North, from such point of intersection, or of parallel, down Blue Creek to its confluence with the Hondo, and thence down to the mouth of the Hondo.

To this general outline of boundary some minor details and stipulations were added or suggested, and acquiesced in; and the whole result, as it appeared in my Memorandum, was left with Don Francisco de Martin for more careful perusal, and afterwards, with one or two marginal notes of his own, placed in the hands of Mr. Bergne, at the Foreign Office, to be shaped into Articles for a Treaty of Boundaries.

I have since perused those Articles as they have been prepared, and think that they are quite comprehensive enough to settle the question of boundary, if finally acquiesced in by the Minister for Guatemala, and if they be also accepted and confirmed in a separate Treaty with Mexico, so far as concerns its contiguous State of Yucatan.

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desirous, with a view to improve and perpetuate the friendly relations which happily subsist between the two countries, to define the boundary aforesaid, have resolved to conclude a Convention for that purpose, and have named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, Esq., Her Britannic Majesty's Chargé d'Affaires to the Republic of Guatemala;

And His Excellency the President of the Republic of Guatemala;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ART. I. It is agreed between Her Britannic Majesty and the Republic of Guatemala, that the boundary between the Republic and the British settlement and possessions in the Bay of Honduras as they existed previous to and on the 1st day of January, 1850, and have continued to exist up to the present time, was, and is as follows:

Beginning at the mouth of the River Sarstoon in the Bay of Honduras, and proceeding up the mid-channel thereof to Gracias á Dios Falls; then turning to the right, and continuing by a line drawn direct from Gracias á Dios Falls to Garbutt's Falls on the River Belize, and from Garbutt's Falls due north until it strikes the Mexican frontier.

It is agreed and declared between the High Contracting Parties that all the territory to the north and east of the line of boundary above described, belongs to Her Britannic Majesty; and that all the territory to the south and west of the same belongs to the Republic of Guatemala.

II. Her Britannic Majesty and the Republic of Guatemala shall, within months after the exchange of the ratifications of the present Convention, appoint each a Commissioner for the purpose of designating and marking out the boundary described in the preceding Article. Such Commissioners shall ascertain the latitude and longitude of Gracias á Dios Falls and of Garbutt's Falls, and shall cause the line of boundary between Garbutt's Falls and the Mexican territory to be opened and marked where necessary, as a protection against future trespass.

III. The Commissioners mentioned in the preceding Article shall meet at such place or places as shall be hereafter fixed, at the earliest convenient period after they shall have been respectively named; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and

according to justice and equity, without fear, favour, or affection to their own country, upon all the matters referred to them for their decision; and such declaration shall be entered on the record of their proceedings.

The Commissioners shall then and before proceeding to any other business, name some third person to act as arbitrator or umpire in any case or cases in which they may themselves differ in opinion. If they should not be able to agree upon the choice of such a third person, they shall each name a person, and in each and every case in which the Commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the Commissioners, which declaration shall also be entered on the record of the proceedings. In the event of the death, absence, or incapacity of either of such Commissioners, or of either of such arbitrators or umpires, or of his omitting, or declining, or ceasing to act, another person shall be named, in the same manner, to act in his place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Guatemala shall engage to consider the decision of the two Commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and conclusive on the matters to be respectively referred to their decision, and forthwith to give full effect to the same.

IV. The Commissioners hereinbefore mentioned shall make to each of the respective Governments a joint report or declaration

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boundary described in Article I of the present Convention shall be equally free and open to the vessels and boats of both parties; and that any islands which may be found therein, shall belong to that party on whose side of the main navigable channel they are situated.

VII. The present Convention shall be ratified, and the ratifications shall be exchanged at as soon as possible, within the space of months.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at

No. 140.—*The Earl of Malmesbury to Mr. Wyke.*

SIR, *Foreign Office, February* 16, 1859.

I THINK it right to observe that the proposed line of demarcation between the Republic of Guatemala and the British Settlement of Honduras, as described in my previous despatch of this date, is not exactly the same in terms as the line described by Mr. Stevenson to M. de Francisco Martin.

In the first place, it has been deemed unnecessary to describe, in a Treaty with Guatemala, the sea-frontier, or any more of the land-frontier than that which relates to the territory of Guatemala; and, secondly, the continuation of the boundary northward from Garbutt's Falls is, in the draft, described simply by a due north line to the Mexican frontier, instead of a line due north to Blue Creek, or to a point on the parallel of the source of Blue Creek.

The object of this last alteration has been merely to make the proposed line as simple and clear as possible; the expectation of Her Majesty's Governments being, that the simpler description now proposed will make little, if any, real difference to either party in point of territory. I am, &c.

Lord J. Russell. MALMESBURY.

No. 141.—*Lord Napier to the Earl of Malmesbury.*—(*Rec. Feb.* 28.)

MY LORD, *Washington, February* 15, 1859.

HAVING been authorized, by the terms of your Lordship's despatch of the 24th of December last, to make, at my discretion, a communication in writing to the Secretary of State, embodying the views of Her Majesty's Government respecting the rights desired by Great Britain in the transit region, as well as with reference to the existing contracts or engagements of the Isthmus States with American citizens, I availed myself of a recent occasion to place in the hands of General Cass the accompanying extract of your Lordship's instruction above mentioned.

By this communication the Secretary of State possesses a permanent record of the policy of Her Majesty's Government, which excludes all aim at separate privileges, and disclaims any wish to interfere with the existing rights of American associations, but which points to the early examination and adjustment of existing engagements in the interest of the rival Companies and of the maritime Powers.

General Cass expressed his satisfaction in the views of Her Majesty's Government. I have, &c.

The Earl of Malmesbury. NAPIER.

(*Inclosure.*)—*The Earl of Malmesbury to Lord Napier.*

(Extract.) *Foreign Office, December* 24, 1858.

YOUR Lordship is fully aware that Her Majesty's Government have no desire to obtain for this country, by negotiations with the Governments of Central America, any advantages for British subjects which shall not be equally shared by the subjects and citizens of all other States whatsoever, and that, so long as the transit communication across the Isthmus is promptly and effectively made, it is a matter of perfect indifference to Her Majesty's Government by what association of individuals that desirable object is accomplished. Although Her Majesty's Government are of opinion that it is for the interest of all Governments, no less than of the rival Companies themselves, that any legal differences which may exist between the Companies should be speedily settled, yet Her Majesty's Government have no wish to interfere in those differences, and have, in fact, in the Drafts of Treaties which Sir William Ouseley is instructed to propose to the Governments of Nicaragua and Costa Rica, expressly declared that nothing therein contained is to be construed to affirm or deny the validity of any existing grant or



endeavouring to settle with Guatemala, on the basis laid down in the Clarendon-Dallas Treaty, the boundary of the British Settlement of Belize, so far as it is conterminous with that Republic and in unison with that line of policy which I explained to Lord Napier in my despatch of the 8th of December last.

I am, &c.

Lord Lyons. MALMESBURY.

No. 143.—Sir W. G. Ouseley to the Earl of Malmesbury.
(Received March 4.)

MY LORD, *Leon, January 5, 1859.*

WITH reference to my despatch of the 28th ultimo, inclosing a copy of my address to the President of Nicaragua, on the occasion of presenting my credentials, I have now the honour to transmit a translation of his Excellency's reply, which has just reached me.

The inclosed copy is made verbatim from the translation sent to me by the Nicaraguan Minister, the original Spanish not having yet been forwarded to Her Majesty's Mission.

I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(Inclosure.)—Reply of President Martinez to Sir W. G. Ouseley's Remarks on presenting his Credentials.

MR. MINISTER, (Translation.)

THOUGH the kind feelings of the august Sovereign of Great Britain and Ireland are well known and acknowledged by the people of Nicaragua, I congratulate myself on hearing them from her worthy Representative; and at the same time I am very happy to express to your Excellency the assurance of their reciprocity on the part of this Republic towards the Queen and towards the nation she so wisely rules.

I highly appreciate the noble feelings by which your Excellency is animated on discharging your honourable mission, as well because they evince the principles of strict morality in which your heart is abundant, on lamenting the cruelties of foreign Vandalism in Nicaragua, as on account of the policy humanitary and of social communion, which in your interesting allocution is expressed.

England no doubt is abundant in eminent men, but the appointment which from among them her august Sovereign has made in the person of Sir Gore Ouseley witnesses her happy election. The precedents of your Excellency, your social connections in the Republic of The United States, your relations of friendship with President Buchanan, and the sympathy that the reports of your appointment produced in the Presidents and States of Central America, and especially in the men near the actual administration

of Nicaragua, all promised a result satisfactory to both countries and to all the commercial nations of the world.

Sir W. G. Ouseley. MARTINEZ.

No. 144.—Sir W. G. Ouseley to the Earl of Malmesbury.
(*Received March 4.*)

(Extract.) *Leon, January 8, 1859.*

THE Treaty with Nicaragua had been so far agreed upon between the Minister for Foreign Relations and myself, that I think it would have been signed to-morrow, but for the arrival of a Government courier from Greytown with despatches from your Lordship, forwarded by Mr. Consul Green. I alluded more particularly to that of the 10th of November last, which I had the honour yesterday to receive.

I had agreed to some alterations and additions of either a merely verbal or unimportant character; but I had also consented, as authorized by your Lordship's instructions conveyed in your despatch of the 14th of October last, further confirmed by the tenor of your despatch of the 26th of October, to modify Article XXII in the sense of the alterations in The United States Treaty proposed by General Xeres at Washington. At the same time, I thought it advisable to strengthen and render more precise and indisputable the provisions of Article XX, giving us all the advantages enjoyed by the most favoured nations.

It is most satisfactory to me to find that I had anticipated the arguments, and almost the precise words, used in your Lordship's despatch of the 10th of November, recommending that Nicaragua should accept, in the Treaties with England and France, the terms insisted on by The United States.

It was in order to hasten the completion of the Treaty that

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(*Inclosure* 1.)—*Señor Toledo to Sir W. G. Ouseley.*

(Translation.) *National Palace, San José,*

MOST EXCELLENT SIR, *December* 16, 1858.

THE Undersigned has great satisfaction in complying with the orders of his Excellency the President in offering his salutations to your Excellency, and in congratulating you on your arrival on the coasts of Central America.

The intentions of Her Britannic Majesty's Government in favour of the interests of the Central American States, and especially of Costa Rica and Nicaragua, inspire, and must inspire, in their authorities the sentiments which are naturally awakened by the just, generous, and beneficent dispositions of Great Britain, and from which must result the tranquillity and welfare of those countries.

The Undersigned, therefore, offers to your Excellency his sincere congratulations on your having been appointed the agent to carry out such interesting measures, as the worthy Representative of Her Britannic Majesty's wishes; and he trusts that on your visiting, as it is to be supposed you will visit, this little country, you will not fail to meet with such a favourable disposition on the part of its Government and of its people as will afford at any rate a slight compensation for the very sensible privations which a European sojourning with us must naturally suffer.

Trusting that before long Costa Rica will have the honour of receiving the worthy Representative of England, the Undersigned, &c.

Sir W. G. Ouseley. NASARIO TOLEDO.

(*Inclosure* 2.)—*Sir W. G. Ouseley to Señor Toledo.*

Leon, January 14, 1859.

THE Undersigned, &c., had the honour of receiving from your Excellency the very gratifying letter of the 16th of December last, in which, by order of his Excellency the President of the Republic of Costa Rica, your Excellency welcomes the Undersigned on his arrival in Central America. He requests your Excellency to convey his respectful thanks to his Excellency the President for the obliging expressions by which he is personally greeted, and by which he feels much honoured.

But he has especially the highest satisfaction in perceiving that the just and generous views of Her Britannic Majesty, and the enlightened policy that inspires her Government, are duly appreciated by the Government of which your Excellency is a distinguished member.

Such sentiments as your Excellency expresses are the more pleasing to the Undersigned as they are an earnest of the readiness

with which the Government of Costa Rica will meet the views of that of Her Majesty, by promptly joining in the adoption of measures for the mutual benefit of both countries, which it will be the duty of the Undersigned to propose, and which will draw still closer the ties which have long united Great Britain and Costa Rica.

The Undersigned, &c.

Señor Toledo. W. G. OUSELEY.

No. 146.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received March* 4.)

My Lord, *Leon, January* 18, 1859.

This day the Treaty of Friendship, Commerce, and Navigation,* proposed by Her Majesty's Government to that of Nicaragua was signed by Señor Zeledon and myself.

I hope shortly to have the honour of transmitting a draft of this document, showing the modifications, additions, or alterations that were adopted, with explanatory remarks on the same.

I am assured by the Nicaraguan Government that they will employ every effort to secure the prompt ratification of this Treaty by the Assembly, before which body it will be laid to-morrow, should it meet so soon.

The Convention will, at all events, be forwarded this day to Managua, and be, I am assured, taken into consideration by the Assembly on the first day of their session.

I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

No. 147.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received March* 4.)

(Extract.) *Leon, January* 19, 1859.

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This was coupled with the addition to Article XX (giving us every right and privilege allowed to the most favoured nation), copy of which I have the honour to inclose.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Modification of Article XX in Treaty with Nicaragua signed on the 18th of January*, 1859.

And, generally, the Republic of Nicaragua engages to grant to Great Britain, and to British subjects, the same rights and privileges, in all respects, in regard to the transit, and the rates of transit, *and also as regards all other rights, privileges, or advantages whatsoever, whether relating to the passage or employment of troops or otherwise* which are *now* or may *hereafter* be granted to or allowed to be enjoyed by the most favoured nation.

[N.B.—The words printed in *italics* are those added to the Article.]

No. 148.—*Sir W. G. Ouseley to the Earl of Malmesbury.* (*Received March* 20.)

(Extract.) *Leon, January* 19, 1859.

The day before yesterday I received from Señor Cortez, Secre- of State at the head of the Nicaraguan Ministry, the letter of which I have the honour to inclose copy and translation, mentioning that the officers of The United States' frigate *Saranac*, had reported, at San Juan del Sur, on the Pacific coast of Nicaragua, that an immediate attack on a point in Mosquitia was intended by Walker, for the purpose of entering Nicaragua from that quarter.

Similar reports have for some time been current.

Copies are inclosed of my reply to the note of Señor Cortez, and of my note to Señor Zeledon to which that reply refers, as also of his reply, this moment received.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure* 1.)—*Señor Cortez to Sir W. G. Ouseley.*

(Translation.)

Sir, *National Palace, Managua, January* 14, 1859.

On the 12th instant, at 5 o'clock P.M., the American frigate *Saranac* anchored in the Bay of San Juan del Sur in this Republic; her officers informed the Commandant of that port of the bandit Wm. Walker, the Chief of the filibusters, having sailed from Mobile, with 500 men, for the coast of Mosquitia, from whence he would penetrate into the interior of this Republic by the River Misco, which takes its source in the jurisdiction of the Department of Chontales.

The designs of modern filibusterism upon all Central America, and especially upon Nicaragua, being well known, my Government is taking the precautionary measure requisite to prevent its gaining a footing here; but, as your Excellency is aware, the mouth of the above mentioned river Misco is in the territory of Mosquitia, over which the jurisdiction of the Executive Power does not for the present extend; and as it is certain that your Excellency's illustrious Government is disposed to destroy, by force of arms, any freebooting expedition which seeks to carry out its designs of fire and pillage, by interrupting commercial relations, and delaying, at the same time, the establishment of the transit route, his Excellency the General President of the Republic thinks it right to acquaint your Excellency, through me, with the intelligence given by the officers of the above-named frigate to the Commandant of the port of San Juan del Sur for his information. I have, &c.

Sir W. G. Ouseley. ROSALIO CORTEZ.

(*Inclosure* 2.)—*Sir W. G. Ouseley to Señor Cortez.*

SIR, *Leon, January* 18, 1859.

IN reply to your Excellency's letter of the 14th instant, I have the honour to state that reports had already reached me, by other channels, similar to those brought by the officers of The United States' ship *Saranac*, to which your Excellency refers. I have already communicated their substance to Señor Zeledon.

The Commanders of Her Majesty's naval forces have been instructed for some time past to prevent the landing of Walker and his piratical followers, as far south as Greytown,—in short, along the whole extent of the territory under the protection of Great Britain, and, further, to aid the authorities of Central America in effecting the expulsion of these lawless invaders from

copy of the Decree authorizing Don Pedro Zeledon to negotiate with me. At that time I was so ill as not to be able to leave my room, and it subsequently escaped my memory. W. G. O.

(Inclosure 3.)—Sir W. G. Ouseley to Señor Zeledon.

SIR, *Leon, January* 17, 1859.

WITH reference to our conversation yesterday, I now forward a summary of the information that has reached me from different quarters as to the movements of the filibusters.

I cannot vouch for the accuracy of these reports, but think that they ought not to be neglected. I take the liberty of suggesting that notice should be sent to the Commandants of the various districts most likely to be the points of attack, and that more especially the local authorities should be instructed, if any hostile vessel or force be discovered in their neighbourhood, to forward without delay expresses to the Government, stating all the facts; and that all arms and munitions of war should be inspected and put in the best order, and placed in the readiest posts or stations for the use of the regular troops or the militia.

I shall take every opportunity of making known to Her Majesty's forces on both coasts of Nicaragua the reported hostile movements of the enemies of Central America. I have, &c.

Señor Zeledon. W. G. OUSELEY.

(Inclosure 4.)—Summary of Intelligence lately received from England, The United States, Greytown, &c., on Movements of Filibusters.

Leon, January 17, 1859.

From The United States.—That Walker had left Mobile with from 200 to 300 men, intending to enter one of the rivers of Mosquitia (the Segovia or one of its affluents), and thence invade Nicaragua.

From Greytown this is confirmed as to the sailing from Mobile, but saying that his destination is Panamá.

From English Officers.—From Washington and New York it is said that the Chiefs and others of the filibusters give out that they have an understanding secretly with a political party in Nicaragua, and that they are in constant correspondence with persons of this party, who invite their presence and wish to see the Government of this country in their hands (probably these may be North Americans or others formerly in relation with or employed by the filibusters).

In the opinion of persons likely to be well informed, the true attack is intended to take place from one of the small ports of the Pacific, which would bring them at once close to Chinandega, Leon, &c., and that the filibusters intend crossing the Isthmus by

the Panamá railroad as passengers, meeting the steamer *Hermann*, now expected from San Francisco with munitions of war and volunteers from California. This seems to be the most vulnerable point. I should, therefore, think that no descent is really intended on the coast of Mosquitia, whether by entering the Segovia river or any other, and that this assertion is either entirely without foundation, and made public as a feint to draw attention from the true point of attack, or that it will be made by a few men only, so as to cause a division of the troops intended for defending the Pacific coast—by this diversion leaving that coast unguarded against the real attacks of the filibusters.

I hear that the steamer *Fashion*, formerly in the service of Walker, a schooner called the *Sarah* (*Susan ?*), and a barque called the *Alice Painter*, had all been engaged for or by Walker. The United States' Government had assured Lord Napier that a clearance had been refused to the last-named vessel (which is now confirmed by the local newspapers), "but that the filibusters were very pertinacious and determined," as the Secretary of State informed Lord Napier, "and would continue their attempts by other means."

From Mobile it is reported that the *Susan* sailed on or about the 5th of December with 175 passenger emigrants, *i. e.*, filibusters. The *Susan* and party are under the command of the so-called Colonel Anderson. It is said that their rendezvous is somewhere on the coast of Florida. The *Fashion* is also full of filibusters, and is to meet the steamer *Washington*, and probably other vessels. The *Washington* is the same steamer that was at Greytown lately. The point of invasion is still said to be Greytown, or the River San Juan by the Rio Colorado. Colonel Anderson is the same who surprised Castillo Viejo.

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offices of your Excellency, and will give to the seasonable suggestions which your communications contain, the attention which they deserve. I have, &c.

Sir W. G. Ouseley. PEDRO ZELEDON.

No. 149.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received March* 20.)

(Extract.) *Leon, January* 29, 1859.

The United States' officers declare their intention to act against Walker and his confederates, and have lately made overtures to this Government, urging it to ask The United States' Commodore to land marines, artillery, &c., for the purpose of defending Nicaragua against the filibusters.

The Government of Nicaragua look to and have formally requested the aid of Her Majesty's forces against the threatened attacks. I have the honour to transmit copy of a note to this effect from Señor Zeledon.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Señor Zeledon to Sir W. G. Ouseley.*

(Translation.) *Leon, January* 18, 1859.

The Undersigned, Minister of Foreign Relations of the Supreme Government of Nicaragua, fully authorized to treat with Sir William Ouseley, Her Britannic Majesty's Minister Plenipotentiary, has the honour to acquaint his Excellency that intelligence received from various quarters announces a new piratical expedition of William Walker against the coasts of Nicaragua, with the intention of disturbing the peace which the Republic enjoys under a Constitutional Administration, and the tranquillity in which she is endeavouring to reconcile her interests with those of the whole civilized world.

The expedition which has set out from Mobile, a port of The United States, in spite of what one had a right to expect from the precautions taken by that Government and the laws of neutrality, disguised under the appearance of a peaceful emigration, and announced as [intended] against the northern coast and the remote points of Choutales and Segovia, obliges us to suspect that it would be more probably directed against the Pacific by way of Panamá, and that, with the reinforcement of auxiliaries from California, it may any day attempt a landing on some intermediate point between San Juan del Sur, Realejo, and the Gulf of Fonseca.

Such being the case, and considering the views taken by Her Britannic Majesty against such expeditions, and her intention to assist the forces of Nicaragua with those of Her Britannic Majesty which are upon these coasts, the Undersigned has the honour to invoke and implore of his Excellency Sir William Ouseley the

assistance of Her Britannic Majesty's naval forces, and their efficacious co-operation, in order that the happy and tranquil circumstances under which the Republic of Nicaragua has this day signed a Treaty of Friendship, Commerce, Navigation, and Protection with Her Britannic Majesty, may not be disturbed by common enemies and adventurers. The Undersigned, &c.

Sir W. G. Ouseley. PEDRO ZELEDON.

No. 150.—*Sir W. G. Ouseley to the Earl of Malmesbury.* (*Received March* 20.)

(Extract.) *Leon, January* 22, 1859.

On the day (January 1) that I sent my reply to Señor Zeledon, Minister and Secretary of State for Foreign Relations, to his note on the Mosquito question, I communicated to his Excellency a draft of the proposed Treaty relative to the Mosquito Indians, and verbally explained to his Excellency the objects of Her Majesty's Government in making the concessions for which it provides, and the friendly feelings that dictated them. At the same time I cautioned him not to allow this Convention to retard the progress of the General Treaty, as I had reason to believe that it might intentionally or otherwise produce delay.

Not receiving any further communication respecting the proposed Convention, of which I more than once reminded Señor Zeledon, I addressed the note, copy of which I have now the honour to forward, to the Nicaraguan Minister, and have this day received the inclosed copy.

I shall have the honour, on a future occasion, to recur to this subject. At present the attention of this Government is absorbed by preparations for defence against the filibusters, and with taking



the Undersigned, &c., will be happy to meet his Excellency at his earliest convenience for that purpose.

The Undersigned, &c.

Señor Zeledon. W. G. OUSELEY.

(*Inclosure* 2.)—*Señor Zeledon to Sir W. G. Ouseley.*

(Translation.) *Leon, January* 22, 1859.

THE Undersigned, &c., has the honour to reply to your Excellency's esteemed communication, relative to the Treaty proposed respecting the Mosquito Indians and the claims of British subjects which your Excellency put into the hands of the Undersigned, and to inform your Excellency that the said Draft of Treaty was remitted by the Undersigned to the Supreme Government, which will communicate directly to your Excellency its intention of acceding to it, or else the propositions and modifications which it resolves upon, so that your Excellency may proceed in the matter as you may think fit, according to circumstances. The Undersigned, &c.

Sir W. G. Ouseley. PEDRO ZELEDON.

No. 151.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received March* 20.)

MY LORD, *Leon, January* 26, 1859.

I HAVE the honour to forward to your Lordship the Treaty of Friendship, Commerce, and Navigation, between Her Majesty and the Supreme Government of Nicaragua, signed by the Nicaraguan Minister and myself on the 18th instant.

The Nicaraguan counterpart of the Treaty is now before the Assembly awaiting ratification, according to the forms required by the constitution of this country. I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

No. 152.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received March* 20.)

(Extract.) *Leon, February* 1, 1859.

I HAVE now the honour to transmit to your Lordship a Draft of the Treaty as originally printed, with the modifications, alterations, and additions that have been mutually agreed upon by the Nicaraguan Minister and myself. Some explanatory remarks are subjoined.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure* 1.)—*Draft Treaty of Friendship, Commerce, and Navigation, between Her Majesty and the Republic of Nicaragua, with the Modifications agreed upon by the Government of Nicaragua and Sir W. G. Ouseley.*

[NOTE.—The modifications or alterations are printed in *italic*, except where they are extensive, in which case the original and modified Articles are printed in parallel columns.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to maintain and improve the relations of good understanding which happily subsist between them, and to promote the commercial intercourse between their respective subjects and citizens, have deemed it expedient to conclude a Treaty of Friendship, Commerce, and Navigation, and have for that purpose named as their respective Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir William Gore Ouseley, Knight Commander of the most Honourable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary on a special mission to the Republics of Central America;

And His Excellency the President of the Republic of Nicaragua, Don Pedro Zeledon, Secretary of State in the Department of Foreign Relations;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ART. I (no alteration). Her Majesty the Queen of the United Kingdom of Great Britain and Ireland recognises * the sovereignty and independence of the Republic of Nicaragua. Consequently, there shall be a perfect, firm, and inviolable peace and sincere

[redacted]

upon the same terms with native subjects or citizens. They shall enjoy all the privileges and concessions in these matters which are or may be made to the subjects or citizens of any country; and shall enjoy all the rights, privileges and exemptions, in navigation, commerce, and manufactures, which native subjects or citizens do or shall enjoy, submitting themselves to the laws there established, to which native subjects or citizens are subjected.

The ships of war and post-office packets of each Contracting Party respectively, shall have liberty to enter into all harbours, rivers, and places within the territories of the other, to which the ships of war and packets of other nations are or may be permitted to come; to anchor there, and to remain and refit; subject always to the laws of the two countries respectively.

The High Contracting Parties further engage that neither will grant any favour to any other nation, in respect of commerce and navigation, which shall not immediately become common to the other Contracting Party.

III (no alteration). The High Contracting Parties agree that, in regard to the coasting trade, the ships, subjects, and citizens of each shall enjoy, in the dominions and territories of the other, the same privileges, and shall be treated in all respects in the same manner, as national vessels, and as native subjects and citizens.

IV (no alteration). The Contracting Parties likewise agree, that whatever kind of produce, manufacture, or merchandize can be, from time to time, lawfully imported into the British dominions in British vessels, may also be imported in vessels of the Republic of Nicaragua; and that no higher or other duties upon the vessel or upon her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other; and in like manner, that whatever kind of produce, manufacture, or merchandize can be from time to time lawfully imported into the Republic of Nicaragua in its own vessels, may be also imported in British vessels; and that no higher or other duties upon the vessel or upon her cargo shall be levied or collected, whether the importation be made in vessels of the one country or of the other.

And they further agree, that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country; and that the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in British vessels, or in vessels of the Republic of Nicaragua.

V. No higher or other duties shall be imposed on the importation into the British dominions of any article the growth, produce, or manufacture of the Republic of Nicaragua, and no higher or other

duties shall be imposed on the importation into the Republic of Nicaragua of any article the growth, produce, or manufacture of the British dominions, than are or shall be payable on the like article being the produce or manufacture of any other foreign country. Nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any article to the territories of the other, than such as are payable on the exportation of the *same or* * like article to any other foreign country.

No prohibition shall be imposed upon the importation of any article the growth, produce, or manufacture of the territories of either of the two Contracting Parties into the territories of the other, which shall not equally extend to the importation of the like article being the growth, produce, or manufacture of any other country: nor shall any prohibition be imposed on the exportation of any article from the territories of either of the two Contracting Parties to the territories of the other, which shall not equally extend to the exportation of the like article to the territories of all other nations.

VI (no alteration). No duties of tonnage, harbour, pilotage lighthouse, quarantine, or other similar or corresponding duties, of whatever nature or under whatever denomination, levied in the name or for the profit of the Government, public functionaries, corporations, or establishments of whatever kind, shall be imposed in the ports of either country upon the vessels of the other country, which shall not be equally imposed in the like cases on national vessels.

VII (no alteration). In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the preceding Articles are, to their full extent, applicable to British vessels and their cargoes arriving in the ports of



IX (no alteration). It is likewise agreed, that it shall be wholly free for all merchants, commanders of ships, and other subjects or citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandize, by wholesale or retail, as with respect to the loading, unloading and sending of their ships; they being, in all these cases, to be treated as subjects or citizens of the country in which they reside or are conducting their business, and to be subject to the laws of that country.

X (no alteration). Whenever the citizens of either of the Contracting Parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity, and all favour and protection shall be given to them for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

XI. If any ship of war or merchant-vessel of either of the High Contracting Parties should be wrecked on the coasts of the other, such ship or vessel, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize which shall be saved therefrom, or the produce thereof, if sold, shall be faithfully restored to the owners, upon being claimed by them or by their duly-authorized agents; and if there are no such owners or agents on the spot, then the said ships or parts of ships, furniture, appurtenances, goods, and merchandize, or the proceeds thereof, if sold, as well as all the papers found on board such wrecked ship or vessel, shall be delivered to the British Consul or Vice-Consul, or to the Consul or Vice-Consul of the Republic of Nicaragua in whose district the wreck may have taken place, upon being claimed by him, *on his giving a receipt or acknowledgment for the same;** and upon payment by such Consul, Vice-Consul, owners, or agents, of only the expenses incurred in the preservation of the property, and of the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel. The charge for such salvage or other expenses shall be made and settled immediately, subject to such right of appeal on the part of the person paying the same as may exist in the respective countries. The goods and merchandize saved from the wreck shall not be subject to duties, unless cleared for consumption; in which case

* Proposed by the Nicaraguan Minister, and admitted as not objectionable.

duties shall be impose... Nicaragua of any ... British domin... being the pr... Nor shall ... in either of ... the territori... tion of the ...

No pro... article the ... either of ... other, whi... article b... country: ... of any ... Parties ... to the ... nation ...

V... lightl... what ... nam... cor... in t... wh... ve...

...duties as if they had been ...

...subjects and citizens of either of the ...territories of the other shall be at ...dispose of, whether by purchase, ...testament, succession *ab intestato*, ...every description of property ...may permit any foreigners, of what... ...heirs and representatives may succeed ...such property, either in person or by ...in the ordinary form of law, in the ...or citizens of the country; and in the ...and representatives, the property shall be ...manner as the like property belonging to a ...country under similar circumstances.

...respects shall they pay upon the value of such ...higher impost, duty, or charge, than is payable ...of the country. In every case, the subjects ...Contracting Parties shall be permitted to export ...or the proceeds thereof; British subjects from the ...Nicaragua, and Nicaraguan citizens from the British ...freely, and without being subjected on such exportation to ...duty as foreigners, and without having to pay any other or ...than those to which subjects or citizens of the country ...

...(no alteration). Both Contracting Parties promise and ...formally to give their special protection to the persons and ...of the subjects or citizens of each other of all occupations ...may be in the territories subject to the jurisdiction of one or the ...transient or dwelling therein, leaving open and free to them ...

dominions or territories of the *other* Contracting Party, or in *the* absence of lawful heirs or representatives, the Consul-General, Consul, or Acting Consul of the nation to which the deceased may belong, shall,* so far as the laws of each country will permit, have the right to take possession and charge of the property which the deceased may have left, for the benefit of his lawful heirs and creditors, giving immediate notice of the death to the authorities of the country.

dominions or territories of the other Contracting Party, or in the absence of lawful heirs or representatives, the Consul-General, Consul, or Acting Consul of the nation to which the deceased may belong, shall have the right, *after a duly made and attested inventory has been signed by him*†, to take possession and charge of the property which the deceased may have left, for the benefit of his lawful heirs and creditors, giving immediate notice of the death to the authorities of the country.

XV (no alteration). The subjects of Her Britannic Majesty residing in the Republic of Nicaragua, and the citizens of the Republic of Nicaragua residing in the dominions of Her Britannic Majesty, shall be exempted from all compulsory military service whatsoever, whether by sea or land, and from all forced loans, or military exactions or requisitions; and they shall not be compelled, under any pretext whatsoever, to pay any ordinary or extraordinary charges, requisitions, or taxes, other or higher than those that are or may be paid by native subjects or citizens.

XVI. It is agreed and covenanted that neither of the High Contracting Parties shall knowingly receive into, or retain in its service, any subjects or citizens of the other Party who have deserted from the naval or military service of that other Party; but that, on the contrary, each of the Contracting Parties shall respectively discharge from its service any such deserters, upon being required by the other Party so to do.

And it is further agreed, that if any of the crew of any merchant-vessel of either Contracting Party shall desert from such vessel within any port in the territory of the other Party, the authorities of such port and territory shall be bound to give every assistance in their power for the apprehension of such deserters, on application

* The words "so far as the laws of each country will permit," often defeat in Spanish and South American countries the whole intention of such an Article as this. For instance, I have known in Brazil cases of the widow and family of an opulent foreigner being reduced to absolute want, the whole property being, according to the *lex loci*, placed in the hands of the "Juiz de Orfãos," or Judge of Orphans, and entirely absorbed by the successive legal processes, delays, and expenses. A Nicaraguan is not likely to suffer in England in this way.

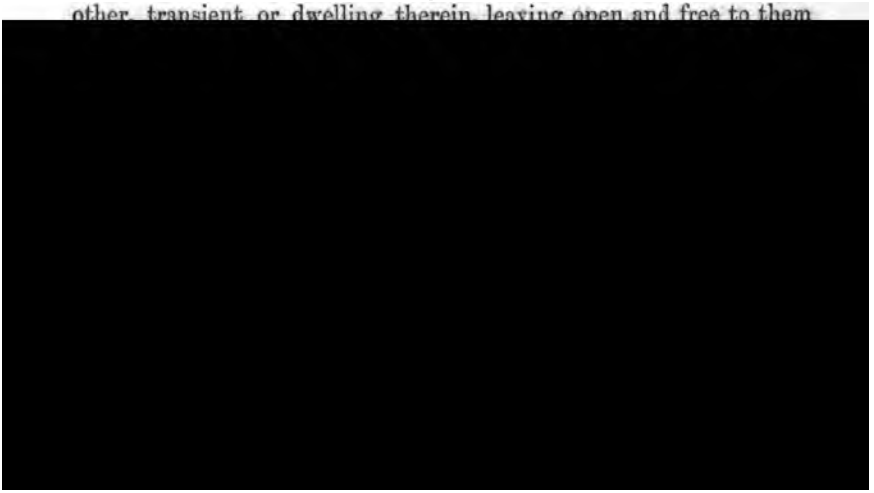
† Admitted, as an additional security for fair dealing.

they shall be liable only to the same duties as if they had been imported in a national vessel.

XII (no alteration). The subjects and citizens of either of the two Contracting Parties in the territories of the other shall be at full liberty to acquire, possess, and dispose of, whether by purchase, sale, donation, exchange, marriage, testament, succession *ab intestato*, or in any other manner whatever, every description of property which the laws of the country may permit any foreigners, of whatsoever nation, to hold. Their heirs and representatives may succeed to, and take possession of such property, either in person or by agents acting in their behalf, in the ordinary form of law, in the same manner as subjects or citizens of the country; and in the absence of such heirs and representatives, the property shall be treated in the same manner as the like property belonging to a subject or citizen of the country under similar circumstances.

In none of these respects shall they pay upon the value of such property any other or higher impost, duty, or charge, than is payable by subjects or citizens of the country. In every case, the subjects and citizens of the Contracting Parties shall be permitted to export their property, or the proceeds thereof; British subjects from the territory of Nicaragua, and Nicaraguan citizens from the British territory, freely, and without being subjected on such exportation to pay any duty as foreigners, and without having to pay any other or higher duties than those to which subjects or citizens of the country are liable.

XIII (no alteration). Both Contracting Parties promise and engage formally to give their special protection to the persons and property of the subjects or citizens of each other of all occupations who may be in the territories subject to the jurisdiction of one or the other, transient or dwelling therein, leaving open and free to them



dominions or territories of the other Contracting Party, or in the absence of lawful heirs or representatives, the Consul-General, Consul, or Acting Consul of the nation to which the deceased may belong, shall,* so far as the laws of each country will permit, have the right to take possession and charge of the property which the deceased may have left, for the benefit of his lawful heirs and creditors, giving immediate notice of the death to the authorities of the country.

dominions or territories of the other Contracting Party, or in the absence of lawful heirs or representatives, the Consul-General, Consul, or Acting Consul of the nation to which the deceased may belong, shall have the right, *after a duly made and attested inventory has been signed by him*†, to take possession and charge of the property which the deceased may have left, for the benefit of his lawful heirs and creditors, giving immediate notice of the death to the authorities of the country.

XV (no alteration). The subjects of Her Britannic Majesty residing in the Republic of Nicaragua, and the citizens of the Republic of Nicaragua residing in the dominions of Her Britannic Majesty, shall be exempted from all compulsory military service whatsoever, whether by sea or land, and from all forced loans, or military exactions or requisitions; and they shall not be compelled, under any pretext whatsoever, to pay any ordinary or extraordinary charges, requisitions, or taxes, other or higher than those that are or may be paid by native subjects or citizens.

XVI. It is agreed and covenanted that neither of the High Contracting Parties shall knowingly receive into, or retain in its service, any subjects or citizens of the other Party who have deserted from the naval or military service of that other Party; but that, on the contrary, each of the Contracting Parties shall respectively discharge from its service any such deserters, upon being required by the other Party so to do.

And it is further agreed, that if any of the crew of any merchant-vessel of either Contracting Party shall desert from such vessel within any port in the territory of the other Party, the authorities of such port and territory shall be bound to give every assistance in their power for the apprehension of such deserters, on application

* The words "so far as the laws of each country will permit," often defeat in Spanish and South American countries the whole intention of such an Article as this. For instance, I have known in Brazil cases of the widow and family of an opulent foreigner being reduced to absolute want, the whole property being, according to the *lex loci*, placed in the hands of the "Juiz de Orfãos," or Judge of Orphans, and entirely absorbed by the successive legal processes, delays, and expenses. A Nicaraguan is not likely to suffer in England in this way.

† Admitted, as an additional security for fair dealing.

duties shall be imposed on the importation into the Republic of Nicaragua of any article the growth, produce, or manufacture of the British dominions, than are or shall be payable on the like article being the produce or manufacture of any other foreign country. Nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any article to the territories of the other, than such as are payable on the exportation of the *same or* * like article to any other foreign country.

No prohibition shall be imposed upon the importation of any article the growth, produce, or manufacture of the territories of either of the two Contracting Parties into the territories of the other, which shall not equally extend to the importation of the like article being the growth, produce, or manufacture of any other country: nor shall any prohibition be imposed on the exportation of any article from the territories of either of the two Contracting Parties to the territories of the other, which shall not equally extend to the exportation of the like article to the territories of all other nations.

VI (no alteration). No duties of tonnage, harbour, pilotage lighthouse, quarantine, or other similar or corresponding duties, of whatever nature or under whatever denomination, levied in the name or for the profit of the Government, public functionaries, corporations, or establishments of whatever kind, shall be imposed in the ports of either country upon the vessels of the other country, which shall not be equally imposed in the like cases on national vessels.

VII (no alteration). In order to prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the preceding Articles are, to their full extent, applicable to British vessels and their cargoes arriving in the ports of Nicaragua, and reciprocally to the vessels of the said Republic and their cargoes arriving in British ports, whether they proceed from the ports of the country to which they respectively belong, or from the ports of any other foreign country; and, in either case, no discriminating duty shall be imposed or collected in the ports of either country on the said vessels or upon their cargoes, whether such cargoes shall consist of native or of foreign produce or manufacture.

VIII (no alteration). All vessels which, according to the laws of Great Britain, are to be deemed British vessels, and all vessels which, according to the laws of the Republic of Nicaragua, are to be deemed vessels of that Republic, shall, for the purposes of this Treaty, be deemed British vessels and vessels of Nicaragua respectively.

* Inserted for the sake of greater precision in Spanish.

and their goods and effects, of whatever description they may be, whether in their own custody or entrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other charges or demands than those which may be made upon the like effects or property belonging to native subjects or citizens. In the same case, debts between individuals, public funds, and the shares of companies, shall never be confiscated, sequestered, or detained.

XIX (no alteration). It shall be free for each of the two Contracting Parties to appoint Consuls for the protection of trade, to reside in the dominions and territories of the other Party; but before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the Contracting Parties may except from the residence of Consuls such particular places as either of them may judge fit to be excepted.

The Diplomatic Agents and Consuls of each of the two High Contracting Parties in the dominions or territories of the other, shall enjoy whatever privileges, exemptions, and immunities are or shall be granted there to Agents of the same rank belonging to the most favoured nation.

Original Draft.

XX. The Republic of Nicaragua hereby grants to Great Britain, and to British subjects and property, the right of transit between the Atlantic and Pacific Oceans, through the territories of that Republic, on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both parties, and their respective subjects and citizens; the Republic of Nicaragua, however, reserving its right of sovereignty over the same: and, generally, the Republic of Nicaragua engages to grant to Great Britain and to British subjects the same rights and privileges, in all respects, in

As modified.

XX. The Republic of Nicaragua hereby grants to Great Britain, and to British subjects and property, the right of transit between the Atlantic and Pacific Oceans, through the territories of that Republic, on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both parties, and their respective subjects and citizens; the Republic of Nicaragua, however, reserving its *full and complete* right of sovereignty over the same: and, generally, the Republic of Nicaragua engages to grant to Great Britain and to British subjects the same rights and privileges, in

to that effect being made by the Consul of the Party concerned, or by the deputy or representative of the Consul: and any person *knowingly** protecting or harbouring such deserters shall be liable to punishment.

XVII. British subjects residing in the territories of the Republic of Nicaragua shall enjoy the most perfect and entire liberty of conscience, without being annoyed, molested, or disturbed on account of their religious belief. Neither shall they be annoyed, molested, or disturbed in the proper exercise of their religion, in private houses, or in the chapels or places of worship appointed for that purpose, provided that in so doing they observe the decorum due to Divine worship, and the respect due to the laws of the country. Liberty shall also be granted to bury British subjects who may die in the territories of the Republic of Nicaragua, in convenient and adequate places, to be appointed and established by themselves for that purpose, with the knowledge of the local authorities, or in such other places of sepulture as may be chosen by the friends of the deceased; nor shall the funerals or sepulchres of the dead be disturbed in any wise or upon any account.

In like manner, the citizens of Nicaragua shall enjoy within the dominions of Her Britannic Majesty a perfect and unrestrained liberty of conscience, and of exercising their religion *within private houses*† [instead of "publicly or privately within their own dwelling houses"], or in the chapels or places of worship appointed for that purpose, agreeably to the laws of those dominions.

XVIII (no alteration). For the better security of commerce between the subjects and citizens of the two High Contracting Parties, it is agreed that if at any time any rupture, or any interruption of friendly intercourse, should unfortunately take place between the two Contracting Parties the subjects or citizens of

[redacted]

and their goods and effects, of whatever description they may be, whether in their own custody or entrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other charges or demands than those which may be made upon the like effects or property belonging to native subjects or citizens. In the same case, debts between individuals, public funds, and the shares of companies, shall never be confiscated, sequestered, or detained.

XIX (no alteration). It shall be free for each of the two Contracting Parties to appoint Consuls for the protection of trade, to reside in the dominions and territories of the other Party; but before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the Contracting Parties may except from the residence of Consuls such particular places as either of them may judge fit to be excepted.

The Diplomatic Agents and Consuls of each of the two High Contracting Parties in the dominions or territories of the other, shall enjoy whatever privileges, exemptions, and immunities are or shall be granted there to Agents of the same rank belonging to the most favoured nation.

Original Draft.	*As modified.*
XX. The Republic of Nicaragua hereby grants to Great Britain, and to British subjects and property, the right of transit between the Atlantic and Pacific Oceans, through the territories of that Republic, on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both parties, and their respective subjects and citizens; the Republic of Nicaragua, however, reserving its right of sovereignty over the same: and, generally, the Republic of Nicaragua engages to grant to Great Britain and to British subjects the same rights and privileges, in all respects, in	XX. The Republic of Nicaragua hereby grants to Great Britain, and to British subjects and property, the right of transit between the Atlantic and Pacific Oceans, through the territories of that Republic, on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both parties, and their respective subjects and citizens; the Republic of Nicaragua, however, reserving its *full and complete* right of sovereignty over the same: and, generally, the Republic of Nicaragua engages to grant to Great Britain and to British subjects the same rights and privileges, in

regard to the transit and the rates of transit which are or may be granted to, or allowed to be enjoyed by, the most favoured nation.

XXI. Her Majesty the Queen of the United Kingdom of Great Britain and Ireland hereby agrees to extend her protection to all such routes of communication as aforesaid, and to guarantee the neutrality of the same. Her Britannic Majesty also agrees to employ her influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua, on its part, undertakes to establish two free ports, one at each of the extremities of the communication aforesaid, on the Atlantic and Pacific Oceans. At these ports no tonnage or other duties shall be imposed or levied by the

all respects, in regard to the transit and the rates of transit, *and also as regards all other rights, privileges or advantages whatsoever, whether relating to the passage or employment of troops or otherwise*, which are *now* or may *hereafter* be granted to, or allowed to be enjoyed by, the most favoured nation.

XXI. Her Majesty the Queen of the United Kingdom of Great Britain and Ireland hereby agrees to extend her protection to all such routes of communication as aforesaid, and to guarantee the neutrality *and innocent use** of the same. Her Britannic Majesty also agrees to employ her influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua, on its part, undertakes to establish *one free port at each extremity of one of the aforesaid routes of communication between the Atlantic and Pacific Oceans.*† At these ports no tonnage or other duties shall be imposed or levied

[redacted]

munitions of war, in her own vessels or otherwise, to either of the said free ports, and shall be entitled to their conveyance between them, without obstruction by the authorities of Nicaragua, and without any charges or tolls whatever for their transportation, on any of the said routes of communication. And no higher or other charges or tolls shall be imposed on the conveyance or transit of the persons and property of subjects of Great Britain, or of the subjects or citizens of any other country, across the said routes of communication, than are or may be imposed on the persons or property of citizens of Nicaragua.

*for the same.** Her Britannic Majesty shall also be at liberty, *on giving notice to the Government or authorities of Nicaragua,*† to carry troops,‡ *provided they are destined for a British Possession, or place beyond sea, or are not intended to be employed against Central American nations friendly to Nicaragua,* and munitions of war,§ *and also to convey criminals, prisoners, and convicts, and their escorts* in her own vessels or otherwise, to either of the said free ports, and shall be entitled to their conveyance between them, without obstruction by the authorities of Nicaragua, and without any charges or tolls whatever for their transportation, on any of the said routes of communication. And no higher or other charges or tolls shall be imposed on the conveyance or transit of the persons and property of subjects of Great Britain, or of the subjects or citizens of any other country, across the said routes of communication, than are or may be imposed on the persons or property of citizens of Nicaragua.

And the Republic of Nicaragua recognizes the right of the Postmaster-General of Great Britain to enter into contracts with any individuals or companies

And the Republic of Nicaragua *concedes*‖ the right of the Postmaster-General of Great Britain to enter into contracts with any individuals or companies

* Does not commit Her Majesty's Government, and allows an opening for a possible and not unfair source of revenue hereafter.

† This is more for reaction on The United States' Treaty than for its application to Great Britain.

‡ Important to England under present circumstances, and likely to become still more so.

§ Although this is generally conceded by friendly nations, it cannot be claimed unless in virtue of a Treaty stipulation,

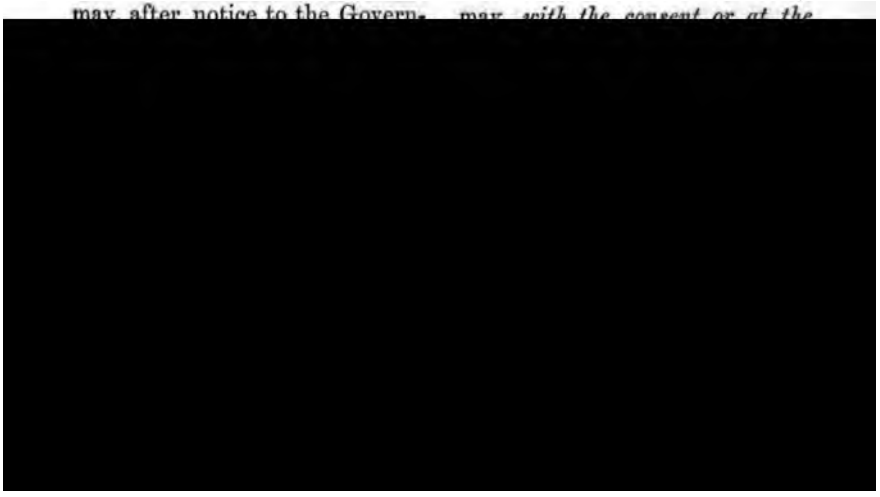
‖ A concession to national *amour-propre.*

to transport the mails of Great Britain along the said routes of communication, or along any other routes across the Isthmus, in closed bags, the contents of which may not be intended for distribution within the said Republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight, except any messenger deputed by the British Post-office in charge of mails.

XXII. The Republic of Nicaragua agrees that, should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon failure to do this for any cause whatever, Her Britannic Majesty may after notice to the Govern-

to transport the mails of Great Britain along the said routes of communication, or along any other routes across the Isthmus, in closed bags, the contents of which may not be intended for distribution within the said Republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight, except any messenger deputed by the British Post-office in charge of mails.

XXII. The Republic of Nicaragua agrees that, should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon failure to do this for any cause whatever, Her Britannic Majesty



ever, of unforseen or imminent danger to the lives or properties of British subjects, Her Majesty's forces are authorized to act for their protection without such previous consent having been obtained.

* *Her Britannic Majesty will forbid and prevent the formation of armed expeditions in her dominions, whether for the invasion of Nicaragua or with the intention or under the pretext of aiding any of the political parties or bodies that may exist in that country.*

XXIII (no alteration). It is understood, however, that Her Britannic Majesty, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intends that the protection and guarantee are granted conditionally, and may be withdrawn if Her Britannic Majesty should deem that the persons or Company undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this Treaty, either by making unfair discriminations in favour of the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandize, or other articles. The aforesaid protection and guarantee shall not, however, be withdrawn by Her Britannic Majesty without first giving 6 months' notice to the Republic of Nicaragua.

XXIV (no alteration). And it is further understood and agreed that, in any grant or contract which may hereafter be made or entered into by the Government of Nicaragua, having reference to the interoceanic routes above referred to, or any of them, the rights and privileges granted by this Convention to Her Britannic Majesty and to British subjects shall be fully protected and reserved; and if any such grant or contract now exist of a valid character, it is further understood that the guarantee and protection of Her Britannic Majesty stipulated in Article XXI of this Treaty shall be held inoperative and void, until the holders of such grant or contract shall recognize the concessions made in this Treaty to Her Britannic Majesty and to British subjects with respect to such interoceanic routes, or any of them, and shall agree to observe, and be governed by, those concessions as fully as if they had been embraced in their

* The additional paragraph is directed towards The United States' negotiators. They cannot refuse it, if accepted by us, without giving occasion for suspicion of their fair dealing.

to transport the mails of Great Britain along the said routes of communication, or along any other routes across the Isthmus, in closed bags, the contents of which may not be intended for distribution within the said Republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight, except any messenger deputed by the British Post-office in charge of mails.

XXII. The Republic of Nicaragua agrees that, should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon failure to do this for any cause whatever, Her Britannic Majesty may, after notice to the Government of Nicaragua, or to the Minister thereof at London or Paris, employ such force for this and for no other purpose; and when the necessity ceases, such force shall be immediately withdrawn.

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† *In the exceptional case, how-*

* The employment of force only at the request of the Government, or Minister at London or Paris, would have had the practical effect of preventing it in most cases altogether, from distance and difficulty of communication.

† This is an important modification, and might be of great use in certain not improbable cases.

bring the Treaties with you. Those Treaties, if approved by Her Majesty, will be ratified simultaneously; but the Treaties containing the guarantee of the neutrality of the interoceanic communication will not be ratified without the others, respecting Mosquito.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 154.—The Earl of Malmesbury to Sir W. G. Ouseley.

(Extract.) *Foreign Office, March 23, 1859.*

I RECEIVED on the 20th instant your despatch of the 26th January last, inclosing the Treaty of Friendship, Commerce, and Navigation, comprising Articles respecting the interoceanic transit which you had signed on the 18th of that month with the Plenipotentiary of the Republic of Nicaragua. At the same time I also received your despatch of the 1st ultimo, inclosing one of the printed copies of the Draft of Treaty furnished to you from this office in August last, with the modifications which you have admitted in the signed Treaty marked in red ink.

Those modifications having been examined with due attention, it now becomes my duty to communicate to you the opinion of Her Majesty's Government with respect to them.

V. The insertion of the words "same or" seems to be immaterial in itself; but I am at a loss to tell why it should have been made in one place only, and not also in the three other corresponding phrases in the Article.

XI. There is no objection to the words inserted.

XIV. It is not possible for us to assent to the alteration which you made in this Article. As the Article stood in the Draft, it provided that in the event of the death of a subject or citizen of either Contracting Party in the territories of the other without his having left a will, or in the case of the absence of his heirs or representatives, the Consul of his nation should, "so far as the laws of the country will permit," have the right to take possession of the property of the deceased for the benefit of his heirs and creditors. You have struck out the words quoted, because, as you state, in Spanish and South American countries they would often defeat the whole intention of the Article, and you have yourself known instances to occur in Brazil where this has been the case. Her Majesty's Government are well aware of this difficulty; but, nevertheless, the words in question are indispensable, because the law of Great Britain does not permit the Consul of a foreign Power to interfere in the manner supposed. In many foreign countries, however, the case is different, and Consuls are, either by law or by custom, permitted to take charge of the property of any of their countrymen who may die intestate, or whose legal representatives may not be on the spot.

original grant or contract; after which recognition and agreement, the said guarantee and protection shall be in full force: provided that nothing herein contained shall be construed either to affirm or deny the validity of any of the said contracts.

XXV (no alteration). After 10 years from the completion of a canal, railroad, or any other route of communication, through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no Company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than 15 per cent. per annum, or at that rate, to its stockholders, from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of 15 per cent. per annum.

XXVI (no alteration). It is understood that nothing contained in this Treaty shall be construed to affect the claim of the Government and citizens of the Republic of Costa Rica to a free passage, by the San Juan river, for their persons and property, to and from the ocean.

XXVII. The present Treaty shall remain in force for the term of *twenty** [in the original Draft "seven"] years from the day of the exchange of ratifications; and if neither party shall notify to the other its intention of terminating the same, twelve months before the expiration of the *twenty* [in original Draft "seven"] years stipulated above, the said Treaty shall continue binding on both parties beyond the said *twenty* [in original Draft "seven"] years, until twelve months from the time that one of the parties may notify to the other its intention of terminating it.

XXVIII. The present Treaty of Friendship, Commerce, and Navigation shall be ratified, and the ratifications shall be exchanged



bring the Treaties with you. Those Treaties, if approved by Her Majesty, will be ratified simultaneously; but the Treaties containing the guarantee of the neutrality of the interoceanic communication will not be ratified without the others, respecting Mosquito.

I am, &c.

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Those modifications having been examined with due attention, it now becomes my duty to communicate to you the opinion of Her Majesty's Government with respect to them.

V. The insertion of the words "same or" seems to be immaterial in itself; but I am at a loss to tell why it should have been made in one place only, and not also in the three other corresponding phrases in the Article.

XI. There is no objection to the words inserted.

XIV. It is not possible for us to assent to the alteration which you made in this Article. As the Article stood in the Draft, it provided that in the event of the death of a subject or citizen of either Contracting Party in the territories of the other without his having left a will, or in the case of the absence of his heirs or representatives, the Consul of his nation should, "so far as the laws of the country will permit," have the right to take possession of the property of the deceased for the benefit of his heirs and creditors. You have struck out the words quoted, because, as you state, in Spanish and South American countries they would often defeat the whole intention of the Article, and you have yourself known instances to occur in Brazil where this has been the case. Her Majesty's Government are well aware of this difficulty; but, nevertheless, the words in question are indispensable, because the law of Great Britain does not permit the Consul of a foreign Power to interfere in the manner supposed. In many foreign countries, however, the case is different, and Consuls are, either by law or by custom, permitted to take charge of the property of any of their countrymen who may die intestate, or whose legal representatives may not be on the spot.

The Article, in the equal form of words used in the Draft, secures to us this advantage without binding us to an exact reciprocation, and at the same time without wounding the susceptibility of the other party. If, on the other hand, the law of the other party will not give the facilities in question we cannot justly complain, because we cannot do so ourselves, and at all events we cannot pledge ourselves to a reciprocation which the law will not enable us to perform. It is, indeed, possible that no instance may for many years occur of a Nicaraguan dying in this country under the circumstances supposed, and so that no inconvenience might arise from the stipulation so far as Nicaragua is concerned; but it would be likely to cause embarrassment with regard to other Powers, who would not understand why we should refuse to them a privilege which we had conceded to Nicaragua. The Article must, therefore, stand as originally framed, unless you can induce the Nicaraguan Government to agree to an Article in the form of that of which I inclose a Draft, conceding the privilege in question to British subjects in Nicaragua, and stipulating in return that the property of a Nicaraguan citizen dying in England without a will, or without leaving representatives on the spot, shall be dealt with in the same manner as the property of a British subject, or of the subject or citizen of the most favoured nation under the like circumstances.

XVI. There is no objection to the insertion of the word "knowingly."

XVII. Nor to the alteration in the last paragraph of this Article.

I now come to the Articles which relate to the interoceanic communication; and although I do not feel called upon to reject all the alterations which you have admitted, I cannot but wish that as my



2. This alteration cannot be admitted. There is no probability of a second transit route being established across the territory of Nicaragua for many years to come, if within the period of fixed duration of the Treaty; and if a second route were to be opened, it would be for the interest of Nicaragua herself that the ports at each end of it should be free ports, so as to encourage the transit traffic. At all events, Her Majesty's Government see no necessity for raising this question in the Treaty. Taken in connection with what follows, the proposed alteration would moreover concede to Nicaragua the right to levy transit-dues on goods passing by any other route than the one with free ports at its extremities, and to this Her Majesty's Government could never consent.

3. Neither can this alteration be assented to. In the first place, it is unnecessary and useless: because the stipulations of the Treaty would not prevent the two Governments from altering or modifying them hereafter by mutual consent; and, secondly, it is objectionable, because, coupled with the preceding alteration, it shows a disposition on the part of Nicaragua to establish, if possible, a system of transit-duties on the Isthmus.

4, 5, 6, 7. To these there is no objection.

XXII. We will admit the altorations numbered 1 and 2.

No. 3 cannot be assented to. It is, in the opinion of Her Majesty's Government, both unnecessary and undignified. We have laws to prevent the formation of armed expeditions in the British dominions, and we cannot admit that we fear any such step on the part of Nicaragua. I am at a loss to know how you could have assented to so important a clause, considering that my despatch No. 26, of the 9th of August last, expressly precluded you from making any alterations in the Draft with which you were furnished, unless of a mere formal and immaterial character.

XXVII. There is no objection to the duration of the Treaty being fixed at 20 years.

Her Majesty's Government much regret that, as so many alterations to which they cannot assent have been made in the Draft proposed by them, they are unable to advise Her Majesty to ratify the Treaty in the terms in which it was signed. I transmit to you a printed Draft, in which I have caused to be inserted such of the alterations as Her Majesty's Government are willing to admit; and you will propose to the Nicaraguan Government to sign the Treaty anew in these terms.

I have only to add, that Her Majesty's Government entirely approve of your having refused to assent to the proposal of the Nicaraguan Minister to insert in Article 1 an engagement on the part of Great Britain to protect the sovereignty and independence of the Republic of Nicaragua; and also of your

having declined to allow the word "mining" in Article II to be expunged.

Sir W. G. Ouseley. MALMESBURY.

(*Inclosure* 1.)—*Draft of Article XIV in Treaty with Nicaragua.*

In the event of any subject of Her Britannic Majesty dying without will or testament in the territories of the Republic of Nicaragua, or in the absence of lawful heirs or representatives, the Consul-General, Consul, or Acting Consul of Her Britannic Majesty, shall, after a duly made and attested inventory has been signed by him, have the right to take possession and charge of the property the deceased may have left, for the benefit of his lawful heirs and creditors, giving immediate notice of the death to the authorities of the country.

In the event of the death of a citizen of the Republic of Nicaragua under similar circumstances, in the dominions of Her Britannic Majesty, the property which the deceased may have left shall be dealt with in the same manner as the property of a British subject [or if the Nicaraguan Government prefer it, "a subject or citizen of the most favoured nation," but there is no real difference] under the like circumstances.

(*Inclosure* 2.)—*Draft Treaty of Friendship, Commerce and Navigation, between Her Majesty and the Republic of Nicaragua.*

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to maintain and improve the relations of good understanding which happily subsist between them, and to promote the commercial intercourse between their respective subjects and citizens, have

[redacted]

a perfect, firm, and inviolable peace and sincere friendship between Her Britannic Majesty and the Republic of Nicaragua, in all the extent of their possessions and territories, and between their subjects and citizens, respectively, without distinction of persons or places.

II. The two High Contracting Parties being desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside therein, and shall have the power to purchase and hold all kinds of property which the laws of the country may permit any foreigners, of whatever nation, to hold, and to engage in all kinds of trade, manufactures, and mining, upon the same terms with native subjects or citizens. They shall enjoy all the privileges and concessions in these matters which are or may be made to the subjects or citizens of any country; and shall enjoy all the rights, privileges, and exemptions, in navigation, commerce, and manufactures, which native subjects or citizens do or shall enjoy, submitting themselves to the laws there established, to which native subjects or citizens are subjected.

The ships of war and post-office packets of each Contracting Party respectively, shall have liberty to enter into all harbours, rivers, and places within the territories of the other, to which the ships of war and packets of other nations are or may be permitted to come; to anchor there, and to remain and refit; subject always to the laws of the two countries respectively.

The High Contracting Parties further engage that neither will grant any favour to any other nation, in respect of commerce and navigation, which shall not immediately become common to the other Contracting Party.

III. The High Contracting Parties agree that, in regard to the coasting trade, the ships, subjects, and citizens of each shall enjoy, in the dominions and territories of the other, the same privileges, and shall be treated in all respects in the same manner, as national vessels, and as native subjects and citizens.

IV. The Contracting Parties likewise agree, that whatever kind of produce, manufacture, or merchandize can be, from time to time, lawfully imported into the British dominions in British vessels, may also be imported in vessels of the Republic of Nicaragua; and that no higher or other duties upon the vessel or upon her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other; and in like manner, that whatever kind of produce, manufacture, or merchandize can be from time to time lawfully imported into the Republic of Nicaragua in its own vessels, may be also imported in British vessels; and that no higher or other duties upon the vessel or upon her cargo shall be levied or collected

whether the importation be made in vessels of the one country or of the other.

And they further agree, that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country; and that the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in British vessels, or in vessels of the Republic of Nicaragua.

V. No higher or other duties shall be imposed on the importation into the British dominions of any article the growth, produce, or manufacture of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the Republic of Nicaragua of any article the growth, produce, or manufacture of the British dominions, than are or shall be payable on the same or the like article being the produce or manufacture of any other foreign country. Nor shall any higher or other duties or charges be imposed, in either of the two countries, on the exportation of any article to the territories of the other, than such as are payable on the exportation of the same or the like article to any other foreign country.

No prohibition shall be imposed upon the importation of any article the growth, produce, or manufacture of the territories of either of the two Contracting Parties into the territories of the other, which shall not equally extend to the importation of the same or the like article being the growth, produce, or manufacture of any other country: nor shall any prohibition be imposed on the exportation of any article from the territories of either of the two Contracting Parties to the territories of the other, which shall not equally extend to the exportation of the same or the like article to

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country; and, in either case, no discriminating duty shall be imposed or collected in the ports of either country on the said vessels or upon their cargoes, whether such cargoes shall consist of native or of foreign produce or manufacture.

VIII. All vessels which, according to the laws of Great Britain, are to be deemed British vessels, and all vessels which, according to the laws of the Republic of Nicaragua, are to be deemed vessels of that Republic, shall, for the purposes of this Treaty, be deemed British vessels and vessels of Nicaragua respectively.

IX. It is likewise agreed, that it shall be wholly free for all merchants, commanders of ships, and other subjects or citizens of both countries, to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandize, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; they being, in all these cases, to be treated as subjects or citizens of the country in which they reside or are conducting their business, and to be subject to the laws of that country.

X. Whenever the citizens of either of the Contracting Parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity, and all favour and protection shall be given to them for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

XI. If any ship of war or merchant-vessel of either of the High Contracting Parties should be wrecked on the coasts of the other, such ship or vessel, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize which shall be saved therefrom, or the produce thereof, if sold, shall be faithfully restored to the owners, upon being claimed by them or by their duly authorized agents; and if there are no such owners or agents on the spot, then the said ships or parts of ships, furniture, appurtenances, goods, and merchandize, or the proceeds thereof, if sold, as well as all the papers found on board such wrecked ship or vessel, shall be delivered to the British Consul or Vice-Consul, or to the Consul or Vice-Consul of the Republic of Nicaragua, in whose district the wreck may have taken place, upon being claimed by him, and on his giving a receipt or acknowledgment for the same; and upon payment by such Consul, Vice-Consul, owners, or agents, of only the expenses incurred in the preservation of the property, and of the salvage or other expenses which would have been payable in

the like case of a wreck of a national vessel. The charge for such salvage or other expenses shall be made and settled immediately, subject to such right of appeal on the part of the person paying the same as may exist in the respective countries. The goods and merchandize saved from the wreck shall not be subject to duties, unless cleared for consumption; in which case they shall be liable only to the same duties as if they had been imported in a national vessel.

XII. The subjects and citizens of either of the two Contracting Parties in the territories of the other shall be at full liberty to acquire, possess, and dispose of, whether by purchase, sale, donation, exchange, marriage, testament, succession *ab intestato*, or in any other manner whatever, every description of property which the laws of the country may permit any foreigners, of whatsoever nation, to hold. Their heirs and representatives may succeed to and take possession of such property, either in person or by agents acting on their behalf, in the ordinary form of law, in the same manner as subjects or citizens of the country; and in the absence of such heirs and representatives, the property shall be treated in the same manner as the like property belonging to a subject or citizen of the country under similar circumstances.

In none of these respects shall they pay upon the value of such property any other or higher impost, duty, or charge, than is payable by subjects or citizens of the country. In every case the subjects and citizens of the Contracting Parties shall be permitted to export their property, or the proceeds thereof, British subjects from the territory of Nicaragua, and Nicaraguan citizens from the British territory, freely, and without being subjected on such exportation to pay any duty as foreigners, and without having to pay any other or higher duties than those to which subjects or citizens of the country are liable.

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XIV. In the event of any subject or citizen of either of the two Contracting Parties dying without will or testament in the dominions or territories of the other Contracting Party, or in the absence of lawful heirs or representatives, the Consul-General Consul, or Acting Consul of the nation to which the deceased may belong, shall, so far as the laws of each country will permit, have the right, after a duly made and attested inventory has been signed by him, to take possession and charge of the property which the deceased may have left, for the benefit of his lawful heirs and creditors, giving immediate notice of the death to the authorities of the country.

XV. The subjects of Her Britannic Majesty residing in the Republic of Nicaragua, and the citizens of the Republic of Nicaragua residing in the dominions of Her Britannic Majesty, shall be exempted from all compulsory military service whatsoever, whether by sea or land, and from all forced loans, or military exactions or requisitions; and they shall not be compelled, under any pretext whatsoever, to pay any ordinary or extraordinary charges, requisitions, or taxes, other or higher than those that are or may be paid by native subjects or citizens.

XVI. It is agreed and covenanted that neither of the High Contracting Parties shall knowingly receive into, or retain in, its service, any subjects or citizens of the other Party who have deserted from the naval or military service of that other Party; but that, on the contrary, each of the Contracting Parties shall respectively discharge from its service any such deserters, upon being required by the other Party so to do.

And it is further agreed, that if any of the crew of any merchant-vessel of either Contracting Party shall desert from such vessel within any port in the territory of the other Party, the authorities of such port and territory shall be bound to give every assistance in their power for the apprehension of such deserters, on application to that effect being made by the Consul of the Party concerned, or by the deputy or representative of the Consul; and any person knowingly protecting or harbouring such deserters shall be liable to punishment.

XVII. British subjects residing in the territories of the Republic of Nicaragua shall enjoy the most perfect and entire liberty of conscience, without being annoyed, molested, or disturbed on account of their religious belief. Neither shall they be annoyed, molested, or disturbed in the proper exercise of their religion, in private houses, or in the chapels or places of worship appointed for that purpose, provided that in so doing they observe the decorum due to Divine worship, and the respect due to the laws of the country. Liberty shall also be granted to bury British subjects

who may die in the territories of the Republic of Nicaragua, in convenient and adequate places, to be appointed and established by themselves for that purpose, with the knowledge of the local authorities, or in such other places of sepulture as may be chosen by the friends of the deceased; nor shall the funerals or sepulchres of the dead be disturbed in any wise or upon any account.

In like manner, the citizens of Nicaragua shall enjoy within the dominions of Her Britannic Majesty a perfect and unrestrained liberty of conscience, and of exercising their religion within private houses, or in the chapels or places of worship appointed for that purpose, agreeably to the laws of those dominions.

XVIII. For the better security of commerce between the subjects and citizens of the two High Contracting Parties, it is agreed that if at any time any rupture or interruption of friendly intercourse should unfortunately take place between the two Contracting Parties, the subjects or citizens of either of them, established in the territories of the other, who may reside upon the coasts, shall be allowed 6 months, and those who may reside in the interior a whole year, to wind up their accounts and to dispose of their property; and a safe-conduct shall be given to them to embark at the port which they themselves shall select. The subjects or citizens of either of the two Contracting Parties who may be established in the dominions or territories of the other, in the exercise of any trade or other occupation or employment, shall be allowed to remain and continue in the exercise of the said trade or occupation, notwithstanding the interruption of friendship between the two countries, in the free enjoyment of their personal liberty and property, so long as they behave peaceably and observe the laws; and their goods and effects, of whatever description they may be, whether in their own custody or entrusted to individuals or to the



shall be granted there to Agents of the same rank belonging to the most favoured nation.

XX. The Republic of Nicaragua hereby grants to Great Britain, and to British subjects and property, the right of transit between the Atlantic and Pacific Oceans, through the territories of that Republic, on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both parties, and their respective subjects and citizens; the Republic of Nicaragua, however, reserving its full and complete right of sovereignty over the same; and, generally, the Republic of Nicaragua engages to grant to Great Britain and to British subjects the same rights and privileges, in all respects, in regard to the transit and the rates of transit, and also as regards all other rights, privileges, or advantages whatsoever, whether relating to the passage or employment of troops, or otherwise, which are now or may hereafter be granted to, or allowed to be enjoyed by, the most favoured nation.

XXI. Her Majesty the Queen of the United Kingdom of Great Britain and Ireland hereby agrees to extend her protection to all such routes of communication as aforesaid, and to guarantee the neutrality of the same. Her Britannic Majesty also agrees to employ her influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua, on its part, undertakes to establish two free ports, one at each of the extremities of the communication aforesaid, on the Atlantic and Pacific Oceans. At these ports no tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of Great Britain, or on any effects or merchandize belonging to subjects of Great Britain, or of any other country, intended *bonâ fide* for transit across the said route of communication, and not for consumption within the Republic of Nicaragua. Her Britannic Majesty shall also be at liberty, on giving notice to the Government or authorities of Nicaragua, to carry troops (provided they are destined for a British possession or places beyond sea, and are not intended to be employed against Central American nations friendly to Nicaragua) and munitions of war, and also to convey criminals, prisoners, and convicts, with their escorts, in her own vessels or otherwise, to either of the said free ports, and shall be entitled to their conveyance between them, without obstruction by the authorities of Nicaragua, and without any charges or tolls whatever for their transportation, on any of the said routes of communication. And no higher or other charges or tolls shall be imposed on the conveyance or transit of the persons and property of subjects of Great

Britain, or of the subjects or citizens of any other country, across the said routes of communication, than are or may be imposed on the persons or property of citizens of Nicaragua.

And the Republic of Nicaragua concedes the right of the Postmaster-General of Great Britain to enter into contracts with any individuals or companies to transport the mails of Great Britain along the said routes of communication, or along any other routes across the Isthmus, in closed bags, the contents of which may not be intended for distribution within the said Republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or Companies, by virtue of this right, to transport the mails, to carry also passengers or freight, except any messenger deputed by the British Post-Office in charge of mails.

XXII. The Republic of Nicaragua agrees that, should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon failure to do this for any cause whatever, Her Britannic Majesty may, with the consent or at the request of the Government of Nicaragua, or of the Minister thereof, at London or Paris, or of the competent legally-appointed local authorities, civil or military, employ such force for this and for no other purpose; and when, in the opinion of the Nicaraguan Government, the necessity ceases, such force shall be immediately withdrawn.

In the exceptional case, however, of unforeseen or imminent danger to the lives or properties of British subjects, Her Majesty's forces are authorized to act for their protection without such previous consent having been obtained.

XXIII. It is understood, however, that Her Britannic Majesty

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the Government of Nicaragua, having reference to the interoceanic routes above referred to, or any of them, the rights and privileges granted by this Convention to Her Britannic Majesty and to British subjects shall be fully protected and reserved; and if any such grant or contract now exist of a valid character, it is further understood that the guarantee and protection of Her Britannic Majesty stipulated in Article XXI of this Treaty shall be held inoperative and void until the holders of such grant or contract shall recognize the concessions made in this Treaty to Her Britannic Majesty and to British subjects with respect to such interoceanic routes, or any of them, and shall agree to observe, and be governed by, those concessions as fully as if they had been embraced in their original grant or contract; after which recognition and agreement, the said guarantee and protection shall be in full force: provided that nothing herein contained shall be construed either to affirm or deny the validity of any of the said contracts.

XXV. After 10 years from the completion of a canal, railroad, or any other route of communication, through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no Company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than 15 per cent. per annum, or at that rate, to its stockholders, from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of 15 per cent. per annum.

XXVI. It is understood that nothing contained in this Treaty shall be construed to affect the claim of the Government and citizens of the Republic of Costa Rica to a free passage, by the San Juan River, for their persons and property, to and from the ocean.

XXVII. The present Treaty shall remain in force for the term of 20 years from the day of the exchange of ratifications; and if neither Party shall notify to the other its intention of terminating the same, 12 months before the expiration of the 20 years stipulated above, the said Treaty shall continue binding on both parties beyond the said 20 years, until 12 months from the time that one of the Parties may notify to the other its intention of terminating it.

XXVIII. The present Treaty of Friendship, Commerce, and Navigation, shall be ratified, and the ratifications shall be exchanged at as soon as possible within from this date.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at

No. 155.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, March* 23, 1859.

IN your despatches received on the 20th instant, you make no reference to the progress of the negotiation of the Treaty with Nicaragua relative to the Mosquito Indians and the rights and claims of British subjects. The settlement of these questions is a matter of more pressing importance to Her Majesty's Government than the conclusion of the Treaty of Commerce and Navigation, and I trust that the next mail may bring some satisfactory intelligence as to this branch of the negotiation with which you are charged.

You will make the Nicaraguan Government clearly understand that the Treaty of Commerce and guarantee of the neutrality of the interoceanic route will not be ratified without the other Treaty.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 156.—*The Earl of Malmesbury to Lord Lyons.*

MY LORD, *Foreign Office, March* 31, 1859.

I INCLOSE for your Lordship's information a copy of a despatch which I have received from Sir W. Ouseley, relative to the modifications which he admitted in the Treaty of Commerce, signed by him on the 18th of January last, with the Government of Nicaragua.

I also inclose copies of despatches, which I have addressed to him in reply, informing him that Her Majesty will not ratify the Treaty of Commerce without the Treaty relative to the Mosquito territory.

I am, &c.

Lord Lyons. MALMESBURY.

the Mosquito frontier, have perplexed and alarmed the Government, and may seriously affect the whole question.

Under these circumstances, I intend to proceed to Costa Rica very shortly, in order to negotiate the Treaty of Friendship and Commerce with that State. The delay in the Mosquito arrangement may be indefinitely prolonged, especially if Walker gets possession of the present seat of Government. Should he not succeed in this, the Assembly will have time not only to come to a decision on the Mosquito Convention, but to ratify the General and Postal Treaties; and I could meet Señor Zeledon, on my return from Cost Rica at one of the ports, to complete the settlement of the Mosquito question, to which there is little doubt of the adherence of Costa Rica.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Señor Zeledon to Sir W. G. Ouseley.*

MOST EXCELLENT SIR, (Translation.) *Leon, January* 28, 1859.

I HAVE had the honour of submitting to the notice of the Supreme Government the Draft of Convention relative to the Mosquito territory, proposed by your Excellency; and, being obliged to proceed to-day to the said Government, I shall take care to communicate to your Excellency myself, or through the person who may be conducting the business of the Department of Foreign Affairs, the decision which may be taken upon this subject.

In the meantime I take, &c.

Sir W. G. Ouseley. PEDRO ZELEDON.

No. 158.—*Sir W. G. Ouseley to the Earl of Malmesbury.*

(*Received April* 5.)

(Extract.) *Leon, February* 5, 1859.

INCLOSED is a copy of my reply to the note of the 18th of January, copy of which I had the honour to forward in my despatch of the 20th ultimo, in which Señor Zeledon applies for protection against the filibusters, invoking the Treaty signed on the 18th ultimo, the date of his Excellency's note.

In my answer, I was obliged, as on previous occasions, to remind the Nicaraguan Minister that the protection which he claimed is confined to the neutrality of the transit route.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Sir W. G. Ouseley to Señor Zeledon.*

Leon, January 24, 1859.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary on a special mission to the Government of Nicaragua, had already received information corroborative of that which the note of his Excellency Don Pedro Zeledon, Secre-

tary of State of the Department of Foreign Relations of Nicaragua, of the 18th instant, contains; and, as he had the honour since then verbally to mention to his Excellency, had taken such steps as were in his power to secure the co-operation, in case of need, of Her Majesty's forces with those of Nicaragua.

On the coasts of the Atlantic there is less to apprehend than on those, so much nearer to the city, of the Pacific, where it so happens that, although several of Her Majesty's ships of great force are on the station, as well as French vessels of war, they are, or were when last heard from, at such a distance that their immediate assistance cannot be counted upon with any certainty.

It had been resolved by Her Majesty's Government, as well as by those of France and of The United States, to employ their forces if necessary against the piratical bands whose illegal expeditions have been so decidedly condemned as well by the Government of the country from whence they habitually embark to attack Nicaragua, as by all civilized nations.

More especially, Her Majesty's Government could not allow that the negotiations with which Her Majesty's special mission is charged should be interrupted, and the action of the Government of this country be impeded by such attacks as those of the filibusters without giving orders that Her Majesty's forces should, when applied to, afford such protection to those engaged in completing a Convention such as that to which Señor Zeledon appeals in his note (written on the day of the signature of that Treaty), which is in truth, as his Excellency says, one of friendship and also of "protection;" *i. e.*, so far as regards the neutrality of the future inter-oceanic communications. The Undersigned, &c.

Señor Zeledon. W. G. OUSELEY.

[redacted]

quitia, to which they cling as though their best interests were involved in it, and as if it were a grievous spoliation lately suffered by Nicaragua from Great Britain, forgetting that the territory they claim never was under the dominion of this Government since its separation from Spain, and that for about two centuries previously the mother-country never possessed over it any *de facto* sovereignty.

On the other hand, the Government perceives the danger of leaving the whole of the Atlantic coast, with its many ports and rivers (some of the latter navigable for small craft nearly, perhaps quite, to the frontier of Nicaragua proper, defenceless against the North American filibusters, whether openly declared, or disguised under the designation of immigrants or settlers, a peril to which they have been alarmingly awakened by late and actual movements of the piratical forces of Walker.

These embarrassing circumstances were anticipated by your Lordship as likely to paralyze the action of this Government, and elicited the decisive anti-piratical declarations of Her Majesty's Government. But as we have no naval or other force on this coast within reach, I deemed it advisable to inform the Nicaraguan Minister of my intention to proceed to Costa Rica.

If the filibusters succeed in reaching the interior, all the attention and efforts of this Government will be necessarily turned to the means of defence, and the negotiation would thus be suspended.

It is also desirable that Her Majesty's Mission be not exposed to insult at the hands of lawless men, against whom Great Britain has declared herself.

The negotiation of the Treaty with Costa Rica will no longer be impeded; and finally, my approaching departure would be likely to induce exertion on the part of the Executive to hasten the ratification of the Treaties already signed, and now before them, and the settlement, or an approach to it, of the Mosquito question.

In the meantime it was necessary to explain to the Nicaraguan Government that a further delay of my movements was caused by the absence of Her Majesty's steam-sloop *Vixen*, momentarily employed, at their urgent request, in defence of the smaller Pacific ports likewise threatened by filibusters, and more defenceless than those of Mosquitia, inasmuch as the Protectorate is not yet at an end, and we have a force at Greytown quite large enough, although deficient in small vessels or gunboats, such as the peculiar service against filibusters requires, for the defence of the honour and dignity of Her Majesty's flag, should circumstances call for its employment.

A copy of my letter to Commander Lambert, of the *Vixen*, is inclosed.

The result of my letter, taking leave of the President, has been the arrival here of Señor Zeledon, the Nicaraguan Minister for

Foreign Affairs, with whom I have already had some conferences on the Mosquito and other questions.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure* 1.)—*Sir W. G. Ouseley to Commander Lambert.*

(Extract.) *Leon, February* 6, 1859.

I HAVE to request that you will, with as little delay as possible, proceed direct to Cazares, and look out for a steamer, and, possibly other vessels, armed and manned by Walker's followers. After proceeding to Cazares, or, possibly, on your way thither, if you see reason for so acting, it will be advisable to look—if no suspicious circumstance calls your attention in another direction—into the small ports of Mogote, Brito, San Juan del Sur, possibly also Salinas and Culebra (the two latter are in Costa Rica). You will act, however, as your judgment and the information you obtain may direct, for the furtherance of the service on which I request your aid, namely, the prevention of any landing of filibusters, and, in case of need, co-operation against them, with the Nicaraguan or Costa Rican authorities.

The local authorities will afford you all the information they can obtain.

Commander Lambert. W. G. OUSELEY.

(*Inclosure* 2.)—*Sir W. G. Ouseley to Señor Zeledon.*

Leon, February 8, 1859.

THE Undersigned, &c., requests Señor Zeledon, &c., to convey to the President his respectful compliments, and to express to his Excellency the regret of the Undersigned at not being able formally to pay his respects to the President at Managua, before his departure for Costa Rica.



from having the honour of taking leave of his Excellency in person on this occasion, and begs, &c.

Señor Zeledon. W. G. OUSELEY.

No. 160.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received April* 5.)

MY LORD, *Leon, February* 25, 1859.

I THIS day received from Señor Cortez the announcement, copy of which I have the honour to forward to your Lordship, of the ratification on the 21st instant of the Treaty of Friendship, Commerce, and Navigation, signed here on the 18th ultimo by Señor Zeledon and myself. I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Señor Cortez to Sir W. G. Ouseley.*

(Translation.) *National Palace, Managua,*

MOST EXCELLENT SIR, *February* 22, 1859.

I DO myself the honour of informing your Excellency that the Congress of the Republic ratified yesterday the Treaty of Friend ship, Commerce, and Navigation, concluded between Great Britain and Nicaragua, which has received the exequatur of the Government.

The Undersigned congratulates himself on so happy a result, and in the meantime has the honour, &c.

Sir W. G. Ouseley. ROSALIO CORTEZ.

No. 161.—*Mr. Hammond to the Secretary to the Admiralty.*

SIR, *Foreign Office, April* 9, 1859.

I AM directed by the Earl of Malmesbury to request that you will state to the Lords Commissioners of the Admiralty that, as it appears probable that Sir W. Ouseley or Mr. Wyke will be engaged for many months to come in the negotiation of the Treaties which Her Majesty's Government have proposed to the several States of Central America, it is important that an adequate and suitable naval force should, for the present, be permanently stationed on the Pacific as well as on the Atlantic Coast of Central America, in order effectually to protect those States from the attacks of filibusters during the time that the negotiations are going on.

I am, &c.

The Secretary to the Admiralty. E. HAMMOND.

No. 162.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, April* 10, 1859.

I TRANSMIT to you a copy of a letter which, by my directions,

has been addressed to the Board of Admiralty, representing the necessity for an adequate and suitable naval force being permanently stationed, for the present, on the Pacific as well as on the Atlantic Coast of Central America.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 163.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, April* 14, 1859.

WITH reference to your despatch of the 3rd of February last, stating that the Nicaraguan Government had not, up to that date, made any communication to you on the subject of the Draft of Treaty which you proposed to them relative to the Mosquito territory, beyond a mere acknowledgment of its receipt and a promise that the decision of the Government should be afterwards made known to you, I cannot but strongly remark upon this inexcusable delay. The alarms about filibusters, to which you allude in your despatch as having perplexed and alarmed the Nicaraguan Government, and as being likely to affect the question, were totally unfounded, and must have been mere excuses for not proceeding with the only Treaty about which Her Majesty's Government are really anxious, namely, that relative to the Mosquito territory.

I have to instruct you to press this matter in the strongest manner upon the attention of the Nicaraguan Government; and you will be careful to bear in mind the positive instructions given you in my despatch of the 9th of August last, not to admit any alterations of an important character in the Drafts of Treaties which you were to propose to the Government of Nicaragua.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

[redacted]

and your Lordship's despatch of the 16th of December last confirmed me in this resolution; but as I learn by letters just received from Nicaragua that he has negotiated his Treaty with that Government and is on the eve of his departure for Costa Rica, where he cannot long be detained, there is now no reason for my further postponing my departure, as the state of my health absolutely requires rest and a change of climate, after a continued residence of 7 years in the tropics.

Under these circumstances I propose leaving Guatemala for England at the end of April next, unless anything, at present unforeseen, should occur to prevent Sir William Ouseley from terminating his negociations in Costa Rica, when, if called on by him, I would of course remain until I had carried out your Lordship's wishes as already conveyed to me on this subject.

The Earl of Malmesbury. C. LENNOX WYKE.

No. 165.—*The Earl of Malmesbury to Mr. Wyke.*

SIR, *Foreign Office, April* 16, 1859.

I HAVE received your despatch of the 28th of February last, in which you state that it is your intention to avail yourself, at the end of the present month, of the leave of absence granted to you by my predecessor in the year 1857.

I trust that my despatch of the 16th of February will have reached you in time to stop your departure. I very much regret to interfere with your enjoyment of your leave of absence, but unless you are seriously unwell, Her Majesty's Government wish you to negotiate and conclude the Treaty with Guatemala respecting the boundary of British Honduras, and also, if required, to take the place of Sir William Gore Ouseley in the still pending negotiations with the other Republics of Central America, a business which must, however, in some measure depend on the time of session of the Congress in those States. I am, &c.

C. L. Wyke, Esq. MALMESBURY.

No. 166.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, April* 16, 1859.

I HAVE to state to you that it is the desire of Her Majesty's Government that you should return home as soon as you shall have signed the Treaties which you are instructed to negotiate with the Republic of Costa Rica, and the Treaty with Nicaragua relative to the Mosquito territory, as well as the Treaty of Friendship, Commerce and Navigation with the same Republic, amended according to the instructions conveyed to you in my despatch of the 23rd ultimo. You will bring the Treaties with you, and the exchange of

the ratifications may be left to be performed by Mr. Wyke or Mr. Hall.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 167.—*M. de Marcoleta to the Earl of Malmesbury.* (*Received April* 19.)

M. LE COMTE, *Paris, le* 17 *Avril*, 1859.

J'AI des raisons de croire que quelques unes des dépêches qui m'ont été adressées par le Gouvernement de Costa Rica ont été égarées. Il en est de même, principalement, à l'égard de celles du Gouvernement de Nicaragua.

Dans l'absence de nouvelles relativement aux Traités signés dernièrement à Nicaragua par Sir W. G. Ouseley, votre Excellence voudra bien me permettre que je vienne demander au Gouvernement de Sa Majesté Britannique si les 3 Traités en question, c'est-à-dire, la Convention Postale, le Traité de Commerce, et celui où sont réglées les questions de San Juan (Greytown) et de la Côte de Mosquitos, sont déjà parvenus au Ministère, et s'ils y sont parvenus ratifiés par le Gouvernement de Nicaragua.

Etant sur le point de négocier avec la France une Convention Postale, je viens, M. le Comte, prier également votre Excellence de vouloir bien me faire connaître les termes, ou les clauses, déjà convenues entre la Grande Bretagne et le Nicaragua, avec l'objet qu'il me soit possible d'harmoniser ces clauses avec celles à négocier avec le Gouvernement de Sa Majesté Impériale.

Veuillez, &c.

The Earl of Malmesbury. J. DE MARCOLETA.

No. 168.—*Lord Napier to the Earl of Malmesbury.*—(*Rec. April* 19.)

MY LORD, *Washington, April* 4, 1859.

[redacted]

Cabinet—which it never could be—would certainly be expunged by the Senate, as binding the Government of The United States to execute its own existing laws—a superfluous and offensive engagement.

I observed to General Cass, in reply to this reflection, that I was disposed to regret the adoption of the clause alluded to. I presumed it had been insisted on by the Nicaraguan Government as a *sine qud non* with Sir William Ouseley; and that Her Majesty's Commissioner had naturally felt himself justified in assenting to it rather than see his negotiation entirely frustrated. I hoped that the persuasions of Mr. Lamar and the advice of Mr. Jerez, recently offered to his Government from Washington, might still induce President Martinez and the Assembly to ratify the American Treaty without the obnoxious provision.

With reference to the conclusion of the Transit Treaty, without the adjustment of that which regulates the transfer of Mosquitia, I suggested that Sir William Gore Ouseley had probably met with some unexpected opposition on the part of the Nicaraguan Government, and had been obliged to refer to London for further instructions. In the interval he had proceeded to Costa Rica for the purpose of concluding the contemplated arrangements with that Government. I made no doubt your Lordship would regret, as I did myself, that the two Treaties had not been cotemporaneously terminated, which would have been more consistent with all the interests involved.

General Cass reiterated several times that he had no doubt of the good faith and conciliatory intentions of Her Majesty's Government; but for the preservation of a friendly understanding between the two countries, he thought it essential that a settlement of the Mosquito and Bay Island questions should not be delayed; and he would direct Mr. Dallas to submit his views to your Lordship on those subjects.

The Secretary of State then expressed himself with some resentment against the Government of Nicaragua on account of their unjustifiable treatment of the transit steam-vessels employed on the San Juan river. It appears that on some alarm of invasion the Nicaraguan authorities ordered the vessels above-mentioned to come to an anchor under the guns of one of the river forts; that on their refusal to obey, the Americans serving on board were arrested, the vessels seized, and some citizens of The United States subjected to forced labour and other hardships.

In conclusion, General Cass emphatically informed me that instructions would instantly be issued to General Lamar ordering him to leave Nicaragua, unless, within the period of 10 days after the receipt of his letters, the Cass-Yrissari Treaty should be ratified in the form adopted by Sir William Ouseley, excepting the last clause of Article XXII

referred to above, and unless ample reparation and apology should be afforded for the outrage perpetrated on the river steamers. If, after the withdrawal of The United States' Minister, a satisfactory adjustment of all the questions in controversy were not attained before the meeting of Congress, the assent of that body would be demanded with a view to the declaration of war against Nicaragua.

Such an issue, said General Cass, would be highly deplored by the Government of The United States; but they had been trifled with too long already. Her Majesty's Government and the Government of France would also, he observed, have many reasons to regret the disturbance of peace in the quarter referred to; and he intimated that their counsels might be properly and advantageously employed in inducing the Nicaraguan Government to adopt a wiser course towards The United States, while it could still be embraced with honour.

I assured General Cass that I made no doubt Her Majesty's Government would continue to give the Government of President Martinez the advice which had been already more than once offered, viz., to make all the concessions in their relations with The United States which are now desired, and which cannot appear unreasonable: for all the modifications in the Cass-Yrissari Treaty embodied in Sir William Ouseley's Convention are acceded to here, except the addition to Article XXII, which could not possibly be entertained by this Government.

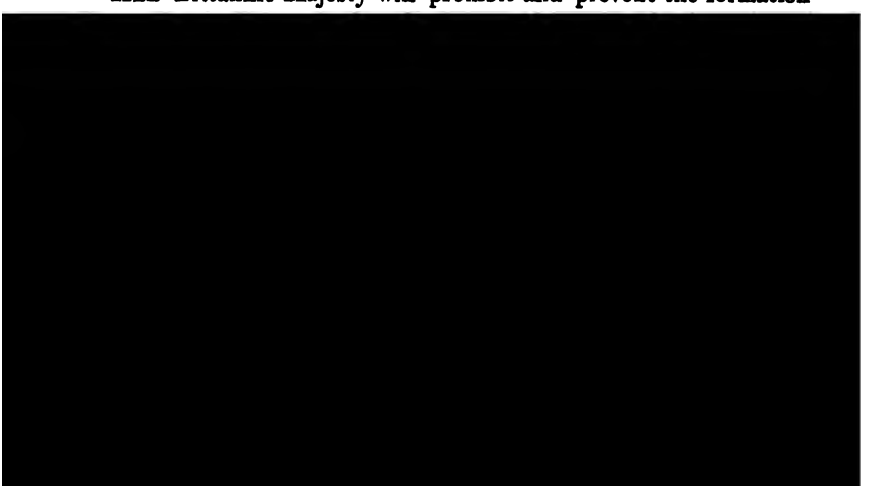
I have, &c.

The Earl of Malmesbury. NAPIER.

(*Inclosure.*)—*Extract from Article XX of the English Treaty with Nicaragua.*

(Translation.)

Her Britannic Majesty will prohibit and prevent the formation



several to which Her Majesty's Government cannot assent, and among them the clause added to Article XXII, which Her Majesty's Government consider as both unnecessary and undignified.

It is hardly necessary for me to add that those modifications were admitted by Sir William Ouseley entirely on his own responsibility; I may, indeed, say in the face of his instructions, which directed him not to assent to any alteration of the drafts with which he was furnished, unless of a purely formal and immaterial character.

Her Majesty's Government promptly refused to ratify the Treaty as signed by Sir William Ouseley, and have instructed him, as your Lordship will have seen by the despatches of which I sent copies in my despatch above referred to, to sign it over again, with the omission of the clauses to which Her Majesty's Government object. He has, moreover, been repeatedly directed distinctly to inform the Nicaraguan Government that Her Majesty's Government regard the object of his Mission—that is, the conclusion of the Treaty of Commerce and of the Convention respecting the Mosquito territory —as a whole, and that the one will not be ratified without the other.

Your Lordship will communicate these facts to General Cass.

Lord Lyons. MALMESBURY.

No. 170.—*The Earl of Malmesbury to M. Marcoleta.*

SIR, *Foreign Office, April* 23, 1859.

I HAVE the honour to acknowledge the receipt of your letter of the 17th instant, requesting information respecting the several Treaties which Sir W. Ouseley was instructed by Her Majesty's Government to negotiate with the Republic of Nicaragua.

I have the honour, in reply, to inclose a copy of the Post-Office Convention signed by Sir W. Ouseley and the Nicaraguan Plenipotentiary, which has been accepted, without alteration, by Her Majesty's Government: but with regard to the other two Treaties, I beg leave to inform you that the General Convention, though signed by Sir W. Ouseley, will not be ratified by Her Majesty's Government in its present shape; and that the Convention relative to Greytown and the Mosquito Coast has not yet been concluded.

I am, &c.

M. Marcoleta. MALMESBURY.

No. 171.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, April* 28, 1859.

I HAVE to state to you that I have received from the Paris Committe for the construction of the Nicaraguan Canal, a copy of a letter addressed to that Board by M. Belly, reporting his arrival at

referred to above, and unless ample reparation and apology should be afforded for the outrage perpetrated on the river steamers. If, after the withdrawal of The United States' Minister, a satisfactory adjustment of all the questions in controversy were not attained before the meeting of Congress, the assent of that body would be demanded with a view to the declaration of war against Nicaragua.

Such an issue, said General Cass, would be highly deplored by the Government of The United States; but they had been trifled with too long already. Her Majesty's Government and the Government of France would also, he observed, have many reasons to regret the disturbance of peace in the quarter referred to; and he intimated that their counsels might be properly and advantageously employed in inducing the Nicaraguan Government to adopt a wiser course towards The United States, while it could still be embraced with success.

I assured General Cass that I made no doubt Her Majesty's Government would continue to give the Government of President Martinez the advice which had been already more than once offered, viz., to make all the concessions in their relations with The United States which are now desired, and which cannot appear unreasonable: for all the modifications in the Cass-Yrissari Treaty embodied in Sir William Ouseley's Convention are acceded to here, except the addition to Article XXII, which could not possibly be entertained by this Government. I have, &c.

The Earl of Malmesbury. NAPIER.

(*Inclosure.*)—*Extract from Article XX of the English Treaty with Nicaragua.*

(Translation.)

HER Britannic Majesty will prohibit and prevent the formation

[redacted]

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Her Majesty's Government promptly refused to ratify the Treaty as signed by Sir William Ouseley, and have instructed him, as your Lordship will have seen by the despatches of which I sent copies in my despatch above referred to, to sign it over again, with the omission of the clauses to which Her Majesty's Government object. He has, moreover, been repeatedly directed distinctly to inform the Nicaraguan Government that Her Majesty's Government regard the object of his Mission—that is, the conclusion of the Treaty of Commerce and of the Convention respecting the Mosquito territory —as a whole, and that the one will not be ratified without the other.

Your Lordship will communicate these facts to General Cass.

Lord Lyons. MALMESBURY.

No. 170.—*The Earl of Malmesbury to M. Marcoleta.*

SIR, *Foreign Office, April* 23, 1859.

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I have the honour, in reply, to inclose a copy of the Post-Office Convention signed by Sir W. Ouseley and the Nicaraguan Plenipotentiary, which has been accepted, without alteration, by Her Majesty's Government: but with regard to the other two Treaties, I beg leave to inform you that the General Convention, though signed by Sir W. Ouseley, will not be ratified by Her Majesty's Government in its present shape; and that the Convention relative to Greytown and the Mosquito Coast has not yet been concluded.

I am, &c.

M. Marcoleta. MALMESBURY.

No. 171.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, April* 28, 1859.

I HAVE to state to you that I have received from the Paris Committe for the construction of the Nicaraguan Canal, a copy of a letter addressed to that Board by M. Belly, reporting his arrival at

Greytown with his staff, and the steps which he was about to take in prosecution of his scheme.

Her Majesty's Government have no connection with M. Belly. They would gladly see this important route constructed and thrown open to the commerce of the whole world, but it is a matter of indifference to Her Majesty's Government by what Company or Association it is brought into operation, and you will, consequently, not interfere in any disputes to which the competing claims of rival companies may give rise, although you will advise the Nicaraguan Government to deal with perfect fairness in regard to all parties.

With reference to the measures resorted to by the Nicaraguans, on the false alarm of a descent of filibusters at Salinas, I have to instruct you to recommend the Nicaraguan Government to make reparation for the mistake which the authorities committed in seizing two steamers of the White Company, and in arresting a number of American citizens, and you will state that the Nicaraguan Government must not expect any support from Her Majesty's Government in this matter.

The assistance which Her Majesty's Government are prepared to render to Nicaragua is confined to repelling attacks of filibusters during the period of your mission, and to a guarantee of the neutrality of the transit route; but even if it were otherwise, Nicaragua, in the case in question, is clearly in the wrong, and could, therefore, not look for any support from this country.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 172.—*The Earl of Malmesbury to Lord Lyons.*

My Lord, *Foreign Office, April* 28, 1859.

[redacted]

expression of regret that the negotiations of Sir William Ouseley had not resulted in the cotemporaneous conclusion of both the contemplated Treaties with Nicaragua; and, moreover, that in the Transit Treaty with that Government a clause had been inserted which was superfluous, as far as England was concerned, and which never could be assented to by The United States. He referred to the last clause of Article XXII, which stipulates that the organization of piratical expeditions shall not be permitted in Her Majesty's dominions, and that British subjects shall not be allowed to take part in the intestine dissensions of Nicaragua. "Such a stipulation," said the President, "as you well know, would not obtain six votes in the Senate."

I was compelled to agree with the President in what he said respecting the effect of the provisions referred to, as far as regards The United States. I added that I presumed Sir William Ouseley had consented to adopt it, because it had been strongly urged on him by the Nicaraguan Government, and that without this concession his whole negotiation might, perhaps, have been frustrated; and I added the expression of my hope that the Cass-Yrissari Treaty might be returned to the American Government ratified, and without the obnoxious clause.

General Cass, who was present, remarked that in his conversations with Sir William Ouseley, he had intimated that the Government of The United States could not possibly accept an amendment to the Treaty negotiated with M. Yrissari, such as had been introduced.

The Earl of Malmesbury. NAPIER.

No. 174.—General Cass to Mr. Dallas.—(Communicated to the Earl of Malmesbury by Mr. Dallas, April 29.)

SIR, *Washington, April 12, 1859.*

RECENT information from Nicaragua renders it necessary that I should call your attention to the unsatisfactory condition of affairs in that quarter.

The good results which were anticipated from Sir W. Gore Ouseley's Mission have not been accomplished. On the contrary, since his arrival in Central America new complications have arisen there, which threaten still further to embarrass the difficult questions which, it was hoped, had nearly reached their honourable adjustment. This is the more unexpected, because on the important subjects with which he had to deal, the Governments of The United States and of Great Britain, after many years of unavailing discussion, had concurred, at last, in a conclusion, which was substantially acceptable to both parties. This conclusion is sufficiently described in my note to Lord Napier of November 8, 1858, and in

the reply to that note from Lord Malmesbury. A copy of the former note was some time since furnished you, and a copy of the latter is herewith transmitted. They will enable you distinctly to understand in what manner the Central American questions were expected by both Governments to be speedily and satisfactorily adjusted, after the arrival in Nicaragua of the British Plenipotentiary. He was to negotiate with that Republic a Convention relinquishing the Mosquito Protectorate, and a further Treaty of Commerce and Transit, similar in its terms to the Cass-Yrissari Treaty, which had previously met the approval of Great Britain. As soon as possible after the conclusion of these Treaties, he was to put himself in communication with Honduras for the purpose of relinquishing to that Republic the Bay Islands, which Great Britain regarded itself as almost under a national promise to cede, and to the terms and conditions of which cession Her Britannic Majesty's Government did not allow itself to foresee any serious impediment.

The first obstacle in the way of this general adjustment was the failure of Nicaragua to ratify the Cass-Yrissari Treaty, which had been negotiated as long ago as November, 1857, and had been detained by the Nicaraguan Government under circumstances of marked indignity to The United States. It was necessary to the restoration of cordial relations between this Government and Nicaragua that this obstacle should be removed, and thus the way made easy for that co-operation on the part of the Representatives respectively of The United States and Great Baitain, in the accomplishment of their common purposes, which was contemplated by the terms of the Clayton-Bulwer Treaty, and was especially to be anticipated after the happy agreement of the two countries upon the mode of settling satisfactorily their long-pending differences in

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object, and could not have failed to be followed by the most favourable results.

The work of arranging the terms and conditions of the relinquishment by Great Britain of the Mosquito Protectorate would naturally have been facilitated by this removal of an irritating subject from the field of Nicaraguan negotiation, while at the same time a useful lesson would have been taught to the Nicaraguan Government.

No insuperable difficulty was anticipated in carrying this arrangement into effect, and The United States were prepared to render every assistance in their power towards its successful result. It was regarded necessarily as an object of the greatest importance both to The United States and Great Britain, because until this was accomplished the adjustment of the Central American questions, according to the views of Lord Malmesbury in his letter of December 8, 1858, was manifestly impossible.

Another purpose which Sir W. Gore Ouseley was expected to accomplish was the conclusion of a Treaty of Commerce and Transit with Nicaragua, similar in its terms to the Cass-Yrissari Treaty.

If the latter Treaty had been ratified, another Treaty of the same general character could have been negotiated without any difficulty whatever. Incontestably, therefore, it was not of pressing importance that this should be the first subject to receive the attention of the British Envoy. The great object to be attained was the amicable settlement of the Central American questions which were in controversy between The United States and Great Britain, and both Governments doubtless expected that this object would be speedily accomplished.

This expectation has wholly failed. The Cass-Yrissari Treaty, instead of being promptly ratified at the opening of the Nicaraguan Congress, seems to have received no attention whatever. There has been no relinquishment of the Mosquito Protectorate, nor is this Government informed what negotiations, if any, have been had upon the subject. No interchange of views appears to have taken place between the British and American Ministers, but, on the contrary, Sir W. Gore Ouseley is understood to have pursued his negotiations without any reference whatever to The United States, or that spirit of co-operation which is clearly contemplated in the Clayton-Bulwer Treaty. Indeed, from the very moment of his arrival in Nicaragua, the disposition of the Government towards The United States seems to have become more and more unfavourable, and its conduct has conformed throughout to this apparent change of disposition.

While the Cass-Yrissari Treaty has not been ratified, and the Mosquito Protectorate has not been relinquished, a Treaty has

been made with Great Britain, and confirmed by Nicaragua, without serious difficulty or delay. This Treaty, which is for the most part a copy of our own, contains an additional clause on the subject of armed expeditions, whose effect, if it should be accepted, must be to control the legislation of Great Britain, and prevent it from repealing, should it be inclined to do so, its Foreign Enlistment Act. The United States are no further interested in this addition than that it is made by Nicaragua the occasion for defeating the Cass-Yrissari Treaty, because this Government would never think of surrendering the control of its own legislation as required by Nicaragua, and had previously rejected this very amendment, which is now incorporated into the Treaty with Great Britain.

The views of the President on this amendment, and the offensive course pursued by Nicaragua in relation to the Treaty generally, you will find fully stated in my note to General Lamar of the 1st instant, a copy of which is annexed. You will there also find that a new outrage has been added to the indignities previously offered to The United States in the seizure by the Nicaraguan authorities of two river steamers, which were the property of one of our Transit Companies.

This condition of affairs in Nicaragua, and the utter failure of Sir W. Gore Ouseley's mission to accomplish the desirable results expected from it, has occasioned great regret to this Government. It was not a case, as this Government understood, where two nations were struggling for exclusive advantages, each being anxious to secure privileges for itself without regard to the other; but what was to be done in Central America was the far better and more honourable work of a mutual adjustment, by two great nations, for the benefit of both, of a difficult and long-standing subject of controversy. Why this fortunate result has not been reached still



the prompt action of the British Government, and that the Clayton-Bulwer Treaty will be thus carried into execution, substantially according to the construction which has always been placed upon it by The United States.

The course towards Nicaragua which this Government may be compelled to pursue for the protection of its own honour and the just rights of its citizens is sufficiently indicated in the accompanying papers, and will be steadily persevered in. Our forbearance towards that weak Republic has only been repaid by injury and insult, and we owe it to ourselves to secure by other means that justice which all peaceful exertions have failed to obtain.

You will read this letter to the Earl of Malmesbury, and will leave with him a copy of it. I am, &c.

G. M. Dallas, Esq. LEWIS CASS.

(*Inclosure.*)—*Mr. Cass to Mr. Lamar.*

SIR, *Washington, July* 25, 1858.

THE serious causes of complaint existing on the part of The United States against the Governments of Nicaragua and Costa Rica have already been made known to you, and you have received the necessary instructions to demand of those Governments prompt and ample reparation for the injuries for which they are responsible. You will again draw their attention to this subject, and especially the attention of the Government of Costa Rica, of which we have the most cause to complain for wrongs done to our citizens, and urge the immediate action of both Governments in order that the United States may not be compelled to resort to other measures to secure that justice to which they are entitled, and which they are determined to obtain.

Recently, however, grave events have occurred in that region which have still more complicated our relations with those Republics.

Your various despatches, Nos. 8, 9, and 10, with the accompanying papers, reached the Department a few days ago, and have engaged my attention. The information you communicate is important, though much of it is little creditable to the Governments with which you have to deal. And, besides the information received from you, two documents have reached here from Europe requiring the attention of the Government; one of which purports to be a contract for opening a canal, of which you were not aware at the time you wrote; while the other contains a kind of manifesto, issued by the Presidents of Nicaragua and Costa Rica against the United States, as irreconcileable with the proprieties of their position as with the true state of the facts which have furnished the occasion for this misrepresentation.

These papers do not come to us through an official channel, but still circumstances indicate that they are authentic. I inclose copies of both of them. Your first step will be, by a categorical inquiry, to ascertain whether this manifesto or declaration is genuine, and if you find it is not, any further proceedings in relation to it will be unnecessary. In order that the views and intentions of The United States respecting their relations with Nicaragua and Costa Rica should be fully made known to those Governments, you will communicate to their proper officers, respectively, a copy of this despatch, omitting, however, such portions of it as relates to this manifesto, should its authenticity be disavowed.

On receiving this extraordinary declaration, the first impression of the President was to take measures to ascertain its authenticity, and if found authentic, then to recall the Minister of The United States to Nicaragua and Costa Rica and to dismiss their Ministers accredited to this Government. And had such a cause of offence been given by France or England, or by any other nation with a well-established Government, properly appreciating its duties towards foreign Powers, this course would at once have been adopted. But The United States in this case will take counsel, not from their rights, but from the condition of these Republics, and they will not hold the people responsible upon this occasion for this undignified exhibition of ill-feeling, which is rebuked by the whole history of their intercourse with this country.

The United States are, as they have ever been, sincerely desirous of the prosperity of the States of Central America, and of the establishment of free, stable, and enlightened Governments among them. And the instructions with which you were furnished when you departed upon your mission, and which were made known to the Governments of the States to which you were accredited, bear



be insisted on, or The United States will no longer be restrained by the considerations I have adverted to from seeking, by more efficacious means, proper redress for these unworthy imputations.

Besides the reproaches of which this effusion of ill-feeling is made the medium of communication to the world, it indicates a line of policy looking to European intervention in American affairs to which The United States have long since avowed their opposition, and which they will resist under all circumstances. I refer to the protectorate demanded by this proclamation, and to the appeal to the Governments of France, England, and Sardinia, to assume the duties attached to that position.

Before proceeding, however, to this subject, there is another which I desire first to dispose of, and which concerns events that have been connected with the relations between these countries and The United States.

It is asserted by these "Supreme Chiefs of the Republic of Nicaragua and Costa Rica" that, at the time they issued this document (May 1, 1858), a filibustering expedition menaced those States, and was at that time preparing to invade them, and that the movement was to be made under the patronage of the Government of The United States, with a view to take possession of Central America, if Central America refused to surrender itself voluntarily to this country. This absurd intimation—declaration rather—that the United States were urging the annexation of this whole Isthmian region, is made with as much gravity as though the authors of it had the actual proof of the fact before them. The assertion is unworthy of refutation; but it justifies some general observations connected with this matter.

That unlawful warlike enterprises have been carried on from The United States, composed of persons from different countries, against the territory of Nicaragua, is not to be denied. But during the whole progress of these illegal efforts, the Government of this country has faithfully performed the duty imposed upon it by the laws, as well through public proclamations against such enterprises as by giving the necessary directions to the proper officers to prevent their organization and departure, as by invoking the action of the judicial tribunals, and also by the employment of its naval force.

It is unnecessary to support these assertions by detailed proofs. They are as well known in Costa Rica and Nicaragua as here. Sometimes, indeed, owing to the defect of proof, it has not been in the power of the Government to arrest these expeditions; but even when its exertions have not succeeded in preventing their departure, they have been fairly and generally successfully directed to prevent reinforcements of men and material from reaching the adventurers who had eluded the vigilance of the officers of the law.

The good faith of The United States in relation to these illegal undertakings has been much misunderstood and misrepresented, both in Central America and elsewhere. A brief recurrence, however, to the true state of the facts would remove many of the erroneous impressions which have prevailed. It would show to every impartial inquirer, what is indeed known to the present rulers of Nicaragua, that the origin of these attempts is due to the intestine difficulties of that country, and to the interference and application of persons of high authority there, supported by the concurrence of a portion of the population.

Under such circumstances the first expedition of this kind left The United States in June, 1855, and it was soon afterwards claimed that the party with which it acted, and whose interests it had promoted, had obtained such possession of the country as to entitle its authorities to be recognized as the actual Government of Nicaragua. The Government of The United States, however, withheld this recognition, and the expedition ultimately failed of success. And subsequently the American authorities, at a critical period, probably prevented by their intervention the accomplishment of another effort to overthrow the existing Government by a military invasion. It is little creditable to the candour of the President of Nicaragua that these circumstances have been entirely overlooked in his earnest desire to cast reproach upon this country.

But there is another consideration not less decisive in forming an estimate of the conduct of The United States under these circumstances. A fresh invasion, says this accusatory manifesto, is preparing under the patronage of the Government of The United States for the purpose of definitively taking possession of Central America, &c.

I have already said that time has shown the error of this

no opposition in The United States from the public authorities, the spirit of adventure originally called into action by Nicaragua itself, and fostered by subsequent occurrences, would send to that country without delay bands of enterprising men who would soon attain the control of its affairs and change the whole course of its policy, probably of its destiny.

But the Presidents of these Republics deal in specific facts as well as in more general allegations. They charge that "the Government of The United States has, according to official reports made to that of Costa Rica by its Minister Plenipotentiary at Washington, declared it was utterly powerless to prevent past attempts by the filibusters, or to protect the neutrality of Central America, owing to the insufficiency of the laws of The United States on this head."

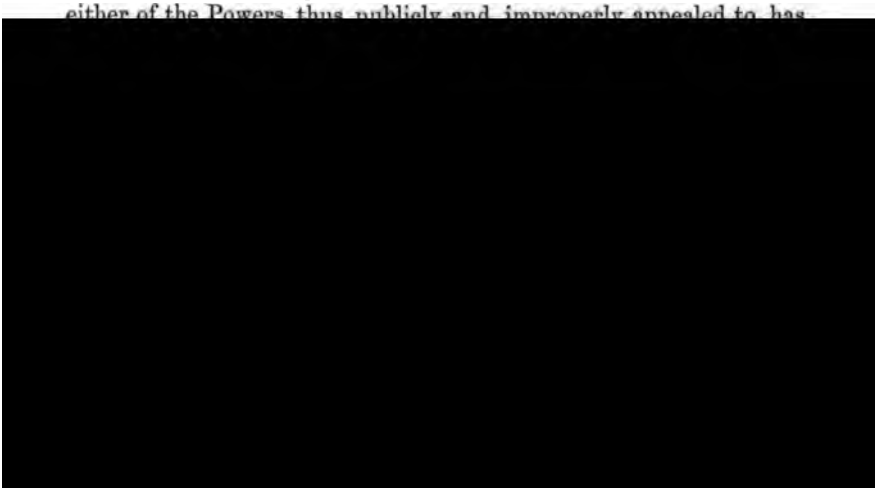
This accusation is wholly without foundation. No such declaration was ever made by the Government of The United States. It would have been an act at once of fatuity and of falsity. As to the difficulties in the enforcement of these laws, they are not denied, and have given much trouble to the Government in the efforts it has made to carry them into effect; but that they are powerless, or have proved so, no one, in or out of The United States, has the right to assert. The Representatives of the Central American States may be called on as witnesses that, in all cases where they have given information to the Government that military expeditions against that region were about to be undertaken, measures have been immediately adopted to prevent their success, and to arrest and punish the offenders. Sometimes these efforts have failed, owing to causes not within the control of the Government, and sometimes they have been successful; but at all times, the knowledge of the disposition of the Government to discharge energetically the duties imposed on it by the laws has operated as a powerful restraint upon these enterprises, and has crippled the means relied upon for their consummation. To these views, connected with this charge of acknowledged imbecility, I have now to add that I have just had an interview with the present Minister Plenipotentiary of Costa Rica in this city, and have been assured by him that no such declaration was ever received by him from this Government, nor communicated to his own. If such a communication was ever made by any one in good faith, it must have been done under some strange misapprehension.

I perceive that you also occupy a place in this grave document, and that your "boasts in public," it is said, as to the course which will be pursued by The United States in the event of the failure of Nicaragua to ratify the recent Treaty, have been deemed important enough to be introduced into this catalogue of national complaints. I have no doubt but that whoever has watched you, with a view to

listen to and report your conversation, has grossly misreported you. But the Presidents of Nicaragua and Costa Rica have much to learn in the duties of a just and wise administration, if they consider it proper or dignified to collect the remarks of foreign Ministers in conversation, and gravely report them to the world as grievances demanding its interposition, or at any rate its condemnation. If you had given any just cause of dissatisfaction to the Governments of those Republics, as I am satisfied you have not, there was another course open to them, far more befitting the occasion than this, and that was, to make a representation of the circumstances to the Government of The United States, in which case an inquiry would have been instituted, and an efficient remedy, if necessary, would have been applied.

As to the statement it has been thought proper to make, that "all the official Agents of The United States in Nicaragua have been the accomplices and auxiliaries of the invaders," I know nothing of it except what is mentioned in this paper, and its position there in the absence of all proof is not sufficient to entitle it to confidence. I repeat the assurance already given with relation to yourself, that if any of these Agents have justly rendered themselves obnoxious to such charges, let the Governments considering themselves injured by their conduct, transmit to this Department specific charges, embodying these or any other accusations, with evidence in support of them, and the subject shall receive immediate attention, followed by such action as may be justly called for.

As to the Protectorate which is invoked for the "independence and nationality of the Republics of Nicaragua and Costa Rica," it is a subject very easily disposed of, so far as The United States have any concern in the question. The President has no belief that either of the Powers thus publicly and improperly appealed to has



freedom and use against those dangers to which they are exposed from aggressions or outrages, originating within or without the territories through which they pass.

But the establishment of a political Protectorate by any of the Powers of Europe over any of the independent States of this Continent, or, in other words, the introduction of a scheme or policy which would carry with it a right to interfere in their concerns, is a measure to which The United States have long since avowed their opposition, and which, should the attempt be made, they will resist by all the means in their power.

The reasons for the attitude they have assumed have been fully promulgated, and are everywhere well known. There is no need upon this occasion to recapitulate them. They are founded on the political circumstances of the American Continent, which has interests of its own, and ought to have a policy of its own, disconnected from many of the questions which are continually presenting themselves in Europe, concerning the balance of power, and other subjects of controversy, arising out of the condition of its States, and which often find their solution or their postponement in war. It is of paramount importance to the States of this hemisphere that they should have no entangling union with the Powers of the Old World; a connection which would almost necessarily make them parties to wars having no interest in them, and which would often involve them in hostilities with the other American States contiguous or remote. The years which have passed by since this principle of separation was first announced by The United States, have served still more to satisfy the people of this country of its wisdom, and to fortify their resolution to maintain it, happen what may.

The progress of events has rendered the interoceanic routes across the narrow portions of Central America vastly important to the commercial world, and especially to The United States, whose possessions extending along the Atlantic and Pacific coasts demand the speediest and easiest modes of communication. While the just rights of sovereignty of the States occupying this region should always be respected, we shall expect that these rights will be exercised in a spirit befitting the occasion, and the wants and circumstances that have arisen. Sovereignty has its duties as well as its rights, and none of these local Governments, even if administered with more regard to the just demands of other nations than they have been, would be permitted, in a spirit of Eastern isolation, to close these gates of intercourse on the great highways of the world, and justify the act by the pretension that these avenues of trade and travel belong to them, and that they choose to shut them, or, what is almost equivalent, to encumber them with such unjust regulations as would prevent their general use. The United States do

not seek either the control or the exclusive use of these routes. They desire that the advantages should be equally common to all nations. Nor do they claim to interfere with the local Governments in the determination of the questions connected with the opening of the routes, and with the persons with whom contracts may be made for that purpose. What they do desire, and mean to accomplish, is that the great interests involved in this subject should not be sacrificed to any unworthy motive, but should be guarded from abuse, and that when fair contracts are fairly entered into with American citizens, they should not be wantonly violated.

Other nations will no doubt pursue the same course in relation to their citizens or subjects who may have similar interests.

But besides these general considerations applicable to this subject, there are others which impose additional obligations upon these Isthmian Powers, and which bear with equal force upon their relations with other nations. Several of these Powers, and Nicaragua especially, have in fact, by their public proceedings, invited the co-operation of the capital, and industry, and enterprise of the world in order to open these lines of communication. The citizens of The United States have contributed their full share towards the accomplishment of the enterprise, and this Government intends to use the means in its power to protect them in the enjoyment of their rights. The good faith of Nicaragua has been committed, and large sums have been expended looking to its faithful observance.

A paper has recently appeared in the public journals, to which I have already referred, purporting to be a contract between the Governments—the Presidents rather—of Costa Rica and of Nicaragua, and M. Belly, a French citizen, and his associates, constituting a new Canal-route Company, and providing for its operations.



claim for them the exclusive use of the routes when the work is completed. Their construction is a fair object of competition for the citizens and subjects of all other Powers. The work is as open to M. Belly and his associates as to any other enterprising person. There are but two points connected with this matter which have any interest for The United States, or which would justify their intervention. The first is, that no contract with M. Belly, or with any one indeed, should interfere with engagements previously existing with American citizens, but that all such engagements should be preserved inviolate; and the second is, that the regulations and conditions of the grant should be such as to render the routes free and safe to all nations, but controlled by no one, and upon moderate and reasonable terms. It would be equally impolitic and unjust for these Governments, in a desire to make these great undertakings profitable to themselves, without furnishing any contribution towards their construction, to levy onerous charges upon the persons and property destined to pass over them, and by this means interpose serious obstacles to their general use. These local Governments should look to the vast benefits which these enterprises will bring to the countries through which they pass, and not strive by excessive impositions to make them sources of revenue, and defeat, by this ill-judged measure, the very object sought to be obtained.

It is not necessary that I should enter into a detailed examination of M. Belly's contract. There are physical and financial obstacles, as well as political ones, in the way of its execution, some of which can hardly be overcome. I shall, therefore, only advert to one of the provisions, rather with a view to the future proceedings of these Governments, than from any practical bearing it will have in this case.

But previously to doing so I will bring to your notice one extraordinary stipulation which it could scarcely have been expected would be acceptable to The United States, and which must have been entered into in the anticipation of their objections to it. Those objections are insurmountable.

This obnoxious arrangement provides that the French Government shall have the right to keep two ships of war stationed in the waters of Lake Nicaragua for the entire duration of the works.

I am persuaded that this proposition will meet no favour from the French Government, and that its name has been introduced here unwarrantably and without its knowledge. The equality and security of these interoceanic routes constitute a great portion of their value to the world, and all commercial Powers are interested in their maintenance. An exclusive right in one of these Powers to

exercise a permanent armed intervention would give serious cause of dissatisfaction to all the others, and The United States freely avow their determination to oppose such a measure should the Governments of Costa Rica and Nicaragua attempt to carry it into effect. But there are additional conditions applicable to this contract with M. Belly, and to other contracts for similar purposes entered into by the Government of Nicaragua, which commend themselves to the Government of The United States, and will not be disregarded. There are several American citizens who, with different interests, claim to have formed engagements with the proper authorities of Nicaragua for opening and using the transit routes, with various stipulations defining their privileges and duties, and some of these contracts have already been in operation. This Government has neither the authority nor the disposition to determine the conflicting interests of these claimants; but what it has the right to do, and what it is disposed to do, is to require that the Government of Nicaragua should act in good faith towards them, and should not arbitrarily and wrongfully divest them of rights justly acquired and solemnly guaranteed. The United States believe it to be their duty, and they mean to execute it, to watch over the persons and property of their citizens visiting foreign countries, and to intervene for their protection when such action is justified by existing circumstances and by the law of nations. Wherever their citizens may go through the habitable globe when they encounter injustice they may appeal to the Government of their country, and the appeal will be examined into with a view to such action in their behalf as it may be proper to take. It is impossible to define in advance and with precision those cases in which the national power may be exerted for their relief, or to what extent relief shall be afforded. Circumstances as they arise



The United States are fully justified by the considerations already adverted to in taking care that they are not wantonly violated, and the safe establishment of an interoceanic communication put to hazard or indefinitely postponed. The course of the Government of Nicaragua with relation to these engagements contains nothing in it reassuring for the future. Contracts duly executed with all the forms of law, carrying with them important vested rights, have been arbitrarily set aside by Executive Decrees—a mode of proceeding not recognized in the contracts themselves—and without resorting to the action of judicial tribunals. The facts in dispute have been unjustly assumed, and the hand of violence has been laid upon solemn engagements, which ought to have found their security in the good faith of the Government. I am not aware that in any case has the forfeiture of a contract been declared in any other way than by an arbitrary Executive Decree. This is a state of things to which no nation is bound to submit. It is vain to expect that the means of men and money required from other nations for the execution of these works will be furnished in the face of such manifestations of bad faith. Without confidence these great enterprises must fail; nor is it probable that one of them requiring a heavy outlay would now be undertaken and completed without some surer guarantee for their protection than would be furnished by the engagements of these Central American States. The danger of violation is too well known and appreciated to justify the expectation of the investment of capital under such unpropitious circumstances.

So long as a pecuniary object is supposed to furnish a motive for rescinding existing contracts and forming new ones, without any regard to vested rights, no progress will be made in the construction of canals, or of other permanent and expensive works for transportation.

The United States, acting in behalf of their citizens, object to this system of confiscation, and they do not doubt but that they will have the concurrence of all other Powers who have similar interests in these vastly important measures. What The United States demand is, that in all cases where their citizens have entered into contracts with the proper Nicaraguan authorities, and questions have arisen, or shall arise, respecting the fidelity of their execution, no declaration of forfeiture, either past or to come, shall possess any binding force unless pronounced in conformity with the provisions of the contract, if there are any, or if there is no provision for that purpose, then unless there has been a fair and impartial investigation in such a manner as to satisfy The United States that the proceeding has been just, and that the decision ought to be submitted to.

Without some security of this kind, this Government will consider itself warranted, whenever a proper case arises, in interposing by such means as it may think justifiable in behalf of its citizens who may have been or who may be injured by such unjust assumption of power.

The course of the Government of Nicaragua with relation to the Treaty concluded by the Plenipotentiaries of that Republic and of The United States, on the 16th of November last, has given serious dissatisfaction to the President. That Treaty, had it been ratified by both parties, would have provided for the satisfactory arrangement of all the unsettled questions between them. It was negotiated by agents furnished with full powers, and on its reception in Nicaragua it met the approbation of the President, and was sent by him to the Constituent Assembly for its ratification, and was constitutionally ratified by that body. The disposition since made of it is unknown to this Government. It is known, however, that the just expectations of this Government have been disappointed, and that, too, under circumstances of the most unpleasant character. Assurances were more than once received from the Nicaraguan Minister here, and I am well persuaded he believed them, that the Treaty had been ratified, and was already on its way to this country by a special messenger, and you also were firmly persuaded, by the circumstances you stated, that such had been the action of the Nicaraguan Government.

On the 28th of March you announced to this Department the ratifications of the Treaty, and on the 28th of April you reported that you had been led into error upon this subject. You explained the causes which had misled you, and certainly they were such as to justify the impression they produced and to lead to the conviction that you were intentionally deceived. It is deeply to be



fate. This personal reference to the Chief Magistrate of a country, with the avowal that a correspondence had been opened with him by the Minister of Foreign Affairs of another Government, is a procedure at once uncourteous and unusual in the intercourse of nations. But, besides this objection, there is yet another. No application has been made for a modification of the Treaty, either to the Chief Magistrate himself or to the officer charged under his directions with the management of the foreign relations of the country. This statement of the Minister, therefore, is only a new and unsuccessful effort to account for the delays which have taken place, and adds, obviously, to the responsibility of the Government of Nicaragua.

No explanation has been received from that Government justifying or extenuating its proceeding, nor is it known here what is the present situation of the Treaty, nor what disposition it is intended to make of it. Had it been duly ratified and exchanged, it would have removed all existing causes of complaint, and would have laid the foundation for the most amicable relations and the most useful and active intercourse between the two countries. The conduct of the Government of Nicaragua has still more complicated those relations, and placed the two countries in a critical position.

This Government, however, yet indulges the hope that a returning sense of justice may induce the Governments of Nicaragua and Costa Rica to recognize their duties and to afford redress for the serious causes of complaint which The United States have urged.

But it is proper they should both distinctly understand that the American people and Government have yielded enough to the weakness of those Republics, and without doing them injustice, they will now take care and do justice to themselves. Preparatory to such action as may be necessary, a naval force will be stationed at San Juan del Norte, and also at San Juan del Sur, and at Realejo, with orders to afford all necessary protection to the persons and property of American citizens, and the commanding officers will be directed to communicate with you, and you will not fail to keep them advised upon all subjects which may relate to the execution of the duties thus entrusted to them. I am, &c.

General Lamar. LEWIS CASS.

No. 175.—The Earl of Malmesbury to Sir W. G. Ouseley.

SIR, *Foreign Office, April* 30, 1859.

I HAVE to state to you that Mr. Dallas called at the Foreign Office yesterday, in order to read to me a despatch which he had received from General Cass, expressing the uneasiness with which the Government of The United States regarded the progress of your negotiations with Nicaragua; those negotiations having, up

to the last dates from Central America, left untouched the question of the surrender of the Mosquito Protectorate, while they had resulted in the conclusion of a Commercial Treaty, which had been ratified by Nicaracua, although that Republic had refused to ratify the Commercial Treaty which it had concluded a year previously with The United States. General Cass also observes upon the objectionable nature of the clause to which you had agreed concerning armed expeditions, and says that that addition is made by Nicaragua the occasion for defeating the Cass-Yrissari Treaty.

I informed Mr. Dallas in reply, that Her Majesty's Government had already expressed to you their regret that you should have proceeded to negotiate the Commercial Treaty with Nicaragua, in apparent disregard of that which is by far the more important of the two, viz., the Treaty for the surrender of the Mosquito Protectorate, and that Her Majesty's Government had informed you that Her Majesty would not be advised to ratify the one without the other also.

I further informed Mr. Dallas that Her Majesty's Government had rejected the clause to which you had agreed on the subject of armed expeditions, which they, equally with the Government of The United States, regarded as in the highest degree objectionable.

I have now to urge upon you in the strongest manner the necessity of your bringing these negotiations to a conclusion in exact conformity with your instructions. Her Majesty's Government deprecate the delay which has already taken place, and they desire that you will make every effort to conclude the Treaties, and to bring them home with you.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 176.—Sir W. G. Ouseley to the Earl of Malmesbury.—(Rec. May 2.)



I much regret that the imperfect means of communication prevented my receiving your Lordship's instructions not to sign the Treaty of Friendship and Commerce, unless that respecting Mosquito were also completed, until my arrival at this place, some weeks after the former had been signed. My stay in Nicaragua, as I have the honour of explaining in another despatch, would have been a complete loss of time, as the Nicaraguan Government had, as I have reason to suppose, to consult and make arrangements with other Governments of Central America, as well as with their own supporters in the Chambers, before Señor Zeledon could be authorized to conclude the proposed Convention. I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure* 1.)—*Sir W. G. Ouseley to Señor Zeledon.*

San José, Costa Rica, March 22, 1859.

THE Undersigned, &c., has not yet received the answer that was promised by Señor Zeledon, Minister of Foreign Relations of the Republic of Nicaragua, to the written and personal communications on the subject of the "Treaty relative to the Mosquito Indians, and to the rights and claims of British subjects."

The Undersigned is aware of the embarrassing position of the Nicaraguan Government when the Treaty was first taken into consideration, caused by the renewed movements of the filibusters at various points on the Mosquito coast itself, as well as on the Pacific, and accepted Señor Zeledon's explanations of the delay requested, founded on the threatened attacks of the piratical adventurers, as also on the necessity for consulting the Representatives on a cession which, though long claimed as a matter of great moment to the national and territorial interests of Central America, yet in the details of its execution required, in the opinion of the Government of Nicaragua, mature consideration, as involving questions of expenditure, boundary, and the settlement of many claims, as well as provision for means of defence.

Allowing due weight to these reasons for some delay, the Undersigned agreed to meet Señor Zeledon in the course of a few weeks from the time of his departure from Nicaragua, at Realejo or Chinandega, for the purpose of concluding and signing the Mosquito Convention, and, in the interim, as his duty required his presence here, the time would not be lost, and the Treaty respecting Mosquitia might thus be signed and forwarded to England but a few weeks later than that of Friendship and Commerce, and, practically, be carried into effect simultaneously with the former.

Such were the views of the Undersigned on leaving Nicaragua for Costa Rica, and such the understanding with Señor Zeledon.

Since his arrival at San José, the receipt of despatches from Her

Majesty's Government makes it the duty of the Undersigned formally to repeat his urgent request that the Government of Nicaragua will lose no time in concluding the Convention relative to Mosquitia, in order that the Treaty of Friendship and Commerce may be ratified by Her Majesty's Government.

In a word, until the Mosquitia Treaty be concluded, the general Treaty will remain inoperative, as both Treaties must be regarded as a whole, and inseparable, except in form, and can only be ratified by Her Majesty as such. The Undersigned, &c.

Señor Zeledon. W. G. OUSELEY.

(*Inclosure* 2.)—*Señor Zeledon to Sir W. G. Ouseley.*

(Translation.) *National Palace, Managua,*

MOST EXCELLENT SIR, *March* 8, 1859.

THE Undersigned, Minister for Foreign Affairs, has the honour to acquaint Sir William Gore Ouseley, &c., that the Supreme Government which he serves has consulted the Senate of the Republic upon the draft of Convention relative to the Mosquito Indians and the territory which they occupy; and that, in accordance with the decision of that Honourable Chamber, it is willing to enter upon the negotiation of that Convention upon the following bases:

1. That the sovereignty of the Republic and its eminent dominion ("dominio eminente") over that territory shall be distinctly defined.

2. That the territory set apart for the Mosquito Indians shall belong to them, in superficial possession,* to have the usufruct of it and of its productions, in common or among particular individuals, in conformity with the administrative regulations which they may adopt, and without the right of alienating it to another nation.

[redacted]

the Republic, under its laws and general government, and considered as the other inhabitants of the Republic.

4. All that relates to the boundaries with Costa Rica to be omitted from the Convention, as they have been arranged between the two Republics; and the Convention shall not prejudice the rights of Honduras.

5. All *bonâ fide* grants of land, for due consideration, made in the name and by the authority of the Mosquito Indians since the 1st of January, 1848, and which are beyond the limits assigned to those Indians by the Convention, shall be confirmed, provided they do not exceed 100 square yards if within the limits of San Juan or Greytown, or a square league if outside those limits, and provided that such grants do not interfere with other valid grants made before that time by Spain, the Republic of Central America, or any of the States of Central America, and provided that such grants do not comprise territory which the Governments of those States may require for forts, arsenals, or other public buildings. This recognition does not in any wise apply to grants made before the 1st of January, 1848; and such grants referred to in the former clause as may have been made *bonâ fide*, but exceed the stipulated extent, shall be reduced to that extent; and if those grants shall not be confirmed because the land included in them may be required for forts, arsenals, or other public buildings, an equivalent extent of territory shall be allotted to the grantees in some other part.

6. The Republic of Nicaragua shall constitute and declare the port of San Juan or Greytown a free port, under the sovereign authority of the Republic, whose inhabitants shall enjoy perfect freedom of religious belief and worship, public and private, and trial by jury in their own affairs. No duties on goods imported or exported shall be imposed in transit, or upon those required for consumption within the city, except such as may be necessary for the police of the port and the maintenance of lighthouses and buoys.

7. The Republic of Nicaragua shall set aside a part of the duties levied upon goods introduced for consumption within the Republic; and, with Her Britannic Majesty's concurrence, that revenue shall be employed for 10 years in the civilization and catechization of the Mosquito Indians.

8. All the territory along the Atlantic coast which by their Convention appertains to the sovereignty of Nicaragua remains under the protection and guarantee of Her Britannic Majesty, until, by a triple Treaty, the guarantees of the Clayton-Bulwer Treaty shall be agreed upon between Great Britain, The United States, and Nicaragua.

These are the essential principles upon which the proposed Con-

vention may be concluded between Her Britannic Majesty and Nicaragua; and the other Articles contained in that Convention (must be) made comformable to these principles.

If his Excellency Sir William Ouseley, as it is to be hoped, should be pleased to accede to them, the Government of the Undersigned will be disposed to authorize and instruct a Minister who, on his Excellency's return to this Republic, will be able to arrange and conclude the Convention. The Undersigned, &c.

Sir W. G. Ouseley. PEDRO ZELEDON.

(*Inclosure* 3.)—*Sir W. G. Ouseley to Señor Zeledon.*

SIR, *San José, Costa Rica, March* 29, 1859.

SINCE my note of the 22nd instant was written, I had the honour to receive your Excellency's letter of the 8th instant. The immediate return of the courier only allows me time at present to acknowledge the receipt of this communication, and to state to your Excellency that I am not empowered to admit any such alterations as those proposed in your letter; but am instructed to abide by the literal terms of the Draft of Convention in the hands of the Nicaraguan Government, and that, unless the Convention respecting Mosquitia be completed, the present Treaty, as being incomplete without the other, will not be ratified, and thus fall to the ground.

I am the more anxious that the Government of Nicaragua should be promptly and clearly informed of the decision of Her Majesty's Government on this head, as, unless the ratifications be exchanged within 6 months, the General Treaty will be null and void, and, therefore, the completion of that relative to Mosquitia (without which the other will not be ratified) becomes the more urgent.

Finally, it is my duty to remind your Excellency that, in order to obviate discussion or complications that might interfere with the



me, and which will reach your Lordship by the same mail that takes this.

As the information respecting the renewed operations of these pirates has, I believe, been obtained through intercepted correspondence, it is not impossible that the plans thus disclosed are not those really adopted by the buccaneers, but are stated purposely to mislead. It seems probable that their true object is to invade Nicaragua; their attacks on Costa Rica having hitherto been defeated by the activity and military spirit of the Costa Ricans, who in one of the last engagements that took place, not only drove off the maurauders, but shot about a score of prisoners made on the occasion. On the other hand, it is not improbable that this act of justice may have raised a vindictive feeling that, strengthened by a hope of profitable plunder, will induce Walker to try to sack Punta Arenas, the port of entry of Costa Rica where the exports and imports remain in depôt, and the Custom-House generally holds considerable sums proceeding from the duties there levied.

Punta Arenas is entirely without means of defence.

As my private correspondence from different parts of The United States confirms (sometimes unintentionally or incidentally) these reports of intended attacks on Central America, I forwarded in a private letter the information I possessed to the Nicaraguan Government, to put them on their guard. I learn from The United States that the so-called General Henningsen, on former occasions Walker's second in command, has succeeded in recruiting a considerable number of idle, depraved, and reckless adventurers (Americanicè "loafers"), a class daily increasing, numbers of whom are to be found in all parts of The United States, especially in the Southern States, at whose head he proceeds across Mexico to meet Walker and his band in California, where they have secured means of transport for about 1,200 or 1,500 men, for a descent upon Central America.

Perhaps the most unfavourable circumstance that now threatens these States is that Henningsen has, I learn, through the active agency of Mr. Soulé, obtained funds to (it is said) a large amount, subscribed by those who favour Walker's attempts.

One competent authority, however, says that the invasion of Sonora is their real object. As Henningsen's views have, to my certain knowledge, for some time been directed against Mexico rather than Central America, this appears not improbable, and the reports of invasion of Central America may be circulated as a blind.

I have informed the French Admiral now at Punta Arenas, through his flag captain, who at present is at San José, of all that is reported as to these meditated movements, and am glad to find that

he is fully prepared to act vigorously and decisively against the filibusters.

The Earl of Malmesbury. W. G. OUSELEY.

P.S.—During Walker's last occupation of parts of Nicaragua, he desecrated the churches, dressed his men in the Priest's vestments, and parodied the elevation of the Host. Finding that he did not gain anything by such proceedings, he, this time before embarking for the expedition now preparing, became a Roman Catholic, and made a public ceremony of his conversion.

No. 178.—*Sir W. G. Ouseley to the Earl of Malmesbury.* (*Received May* 2.)

(Extract.) *San José, Costa Rica, March* 31, 1859.

With reference to your Lordship's despatch of the 16th of February last, which I had the honour of receiving at this place, I beg leave to explain that my first report was "meagre," because, beyond the fact of having had some meetings with the Nicaraguan Plenipotentiary, and vague general promises being given of readiness to act in conformity with the wishes of Her Majesty's Government, to which your Lordship would not have attached much importance, there was really little or nothing to report.

Your Lordship will recollect that I mentioned that the Government was, when I arrived, making a progress through the different districts, and although I managed so as to meet the President and Señor Zeledon at Realejo, at Chinandega, and Leon at short intervals, I considered that in the objects of my mission no real progress would, or could, be made until the translations into Spanish were ready, and the Government was stationary. The Chambers were about to meet, and this caused considerable interruption to Señor



Waiting for the conclusion of the Mosquito Convention would have prevented that of the General Treaty; while the completion of the latter would hasten the settlement of the Mosquito and Greytown question, for this reason: one of the chief embarrassments of the Central American Governments is their inability to prevent the occupation of Greytown by the filibusters when protection is withdrawn. Before the necessary preliminary steps (of reference to Greytown and other distant places) could be accomplished—indeed, during the first fortnight of January—the filibuster movements commenced, and have continued at intervals ever since. I presumed that it was useless to urge the Nicaraguan Government at that moment.

The Nicaraguan Government is much more inclined to accept the conditions of the Mosquito Treaty, now that they conceive that the clause respecting the transit will empower Great Britain at least to protect the communications across Nicaragua. They are also in daily hopes of hearing that the Treaty with France is signed, and then they consider that the settlement of the Mosquito question will be much facilitated.

Finally, Nicaragua would not have made any arrangement of the question, excepting in conjunction with Costa Rica, to whom they look for military and material aid.

Under these circumstances, I decided on coming directly hither. I can negotiate the General Treaty with Costa Rica, without losing time by waiting in Nicaragua; and as the conditions are now defined and peremptory, Nicaragua will strive to accept them. If she cannot, or will not, Her Majesty's Government keeps in its hands the power of refusing to ratify the General Treaty. I purposely made the term for ratification short (6 months), in order to hasten their movements on the Mosquito question.

The Earl of Malmesbury. W. G. OUSELEY.

No. 179.—*Sir W. G. Ouseley to the Earl of Malmesbury.* (*Received May* 2.)

(Extract.) *San José, Costa Rica, April* 1, 1859.

I HAVE communicated to Baron Didelot, Flag Captain to Vice-Admiral Bonard, Commander-in-chief of the French squadron in the Pacific, the principal instructions in my possession from the Admiralty to the Commander-in-chief and senior officers on the Atlantic and Pacific coasts, and find that they are, *mutatis mutandis*, to the same effect as those issued by the French Minister of Marine, as to the mode of procedure against filibusters, and the aid to be given, at the request of the Central American Governments.

The Earl of Malmesbury. W. G. OUSELEY.

No. 180.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received May* 2.)

(Extract.) *San José, Costa Rica, April* 2, 1859.

ALTHOUGH on my arrival here the President was in the country, I have had several opportunities of conversing with his Excellency.

I found the President ready to converse with me on the subject of the Mosquito arrangement and others of interest. He completely confirmed my suspicion that the Nicaraguan Government would take no step in the affair until they had referred to Costa Rica,

The immediate departure of the mail does not allow me to enter into all the details of the President's communication by this opportunity; but if I am to credit his assurances (and those of Señor Toledo, the Minister of Foreign Relations) there will be no difficulty made on the part of Costa Rica in conforming to the wishes and proposals of Her Majesty's Government, whether on the Mosquito or any other question.

The Earl of Malmesbury. W. G. OUSELEY.

No. 181.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received May* 2.)

MY LORD, *San José, Costa Rica, April* 2, 1859.

AWARE of the desire of Her Majesty's Government for the speedy settlement of the Greytown and Mosquito questions, and the cession of the Protectorate over those territories, I have, according to your Lordship's instructions, endeavoured to hasten the conclusion of the Convention on that subject, for some time in course of negotiation; and it becomes now my duty to state to your Lordship that the chief delay and difficulties that have prevented the Government of Nicaragua from at once accepting the proposal of Her Majesty's Government have been caused by the movements of the filibusters.

[redacted]

One of the chief objects of these buccaneers in endeavouring, by these perplexing and harassing attacks, to prevent the signature of the Treaty, is, doubtless, to cause difficulty, if possible, between Her Majesty's Government and that of The United States, and to prolong the duration of subjects of contention.

Were The United States' Government to put a stop to the organization of the lawless expeditions now preparing in The United States, and forcibly to prevent the sailing of the filibuster vessels, or capture them at sea, there would be little difficulty or delay in carrying into effect your Lordship's instructions, as Nicaragua has long claimed dominion over the territory now under the Protectorate of Great Britain, and the Nicaraguan Plenipotentiary has even very lately appealed, in conversation with myself, to the generous moderation of Her Majesty's Government on this and other vexed questions. I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

No. 182.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received May* 2.)

(Extract.) *San José, Costa Rica, April* 2, 1859.

I HAD yesterday the honour of presenting the Queen's letter to the President of Costa Rica, accrediting me as Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to this Government.

When I first arrived the President was in the country, whither he often goes at this season. I did not ask for a formal audience when I first arrived, as two mails from the Foreign Office were missing, which it was desirable to receive before my official reception.

I have the honour of transmitting copy of my address to the President.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Address of Sir W. G. Ouseley on presenting his Credentials to the President of Costa Rica.*

I HAVE the honour to present to your Excellency the letter in which the Queen my august Sovereign has deigned to accredit me as Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the Government over which your Excellency presides.

I trust that the Mission with which I have the honour to be charged will have the result of drawing still closer the ties of friendship and good feeling that have long happily subsisted between our respective countries.

Great Britain, ever desirous of peace and good understanding with all the nations of the world, has, in virtue of her vast empire in this hemisphere, a special interest in cultivating the most amicable relations with every American State, particularly with those whose

productions, industry, and commerce, are, like those of Costa Rica, daily increasing under the fostering care of an intelligent Government; while the gallant conduct of its people in defence of their homes, their altars, and their country, gives to their well-wishers, among whom I trust to be counted, just hopes that they may be as successful in repelling future piratical attacks as they may have been on former occasions.

I may be allowed to congratulate your Excellency, as President of Costa Rica, on the success of the measures adopted for furthering the agricultural and commercial prosperity of this Republic, and myself, on having the honour and gratification of being accredited to its able and enlightened ruler.

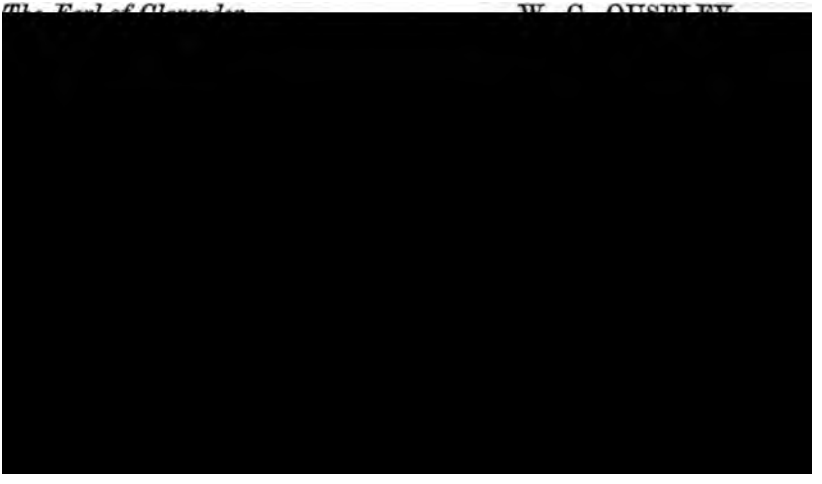
No. 183.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received May* 2.)

MY LORD, *San José, Costa Rica, April* 2, 1859.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 16th of February, desiring me to forward to Mr. Wyke the full powers enabling him to negotiate with the Government of Guatemala respecting the boundary between that Republic and British Honduras.

Baron Didelot, Flag Captain to Admiral Bonard, who returns this day to Punta Arenas, and who will proceed at once in the flagship *Andromède* to Guatemala, is good enough to take charge of the full powers for Mr. Wyke. If it had not been for this opportunity I could not have sent to Mr. Wyke until the 19th instant, as there is only one monthly mail from this State to Guatemala, and your Lordship's despatches reached me the day after the departure of the last courier. I have, &c.

The Earl of Clarendon W. G. OUSELEY.



Taken in connection with the formation of the Colonization Societies by Henningsen, and the fact of Garrison having given a free passage on his steamers for San Francisco to all the discontented idlers at Frazer river, there is too much reason to apprehend that another attempt is about to be made by Walker on Central America.

Garrison, who owns several ocean steamers, and is a man of large means, has already advanced at least 100,000*l.* on filibustering schemes, which will be irretrievably lost unless Walker can be reinstated; a sufficient reason for his aiding in another attempt, even although it should be considered rather a desperate one.

It would appear an imprudent act of Colonel Natzmur to commit the project to paper, and to send it to Costa Rica, if the intention were to carry it out; but neither he nor his principal have hitherto given reason for entertaining a high opinion of their prudence or abilities. And it must be borne in mind that Walker has little doubt of overcoming, without difficulty, any opposition he might meet with in Nicaragua; while he has every reason to apprehend the interference of Costa Rica, and he could find no means of crippling her resources more effectually, and preventing that interference, than by sacking Punta Arenas.

It only remains for me to add, that much of the property in Punta Arenas is owned by British, French, and Sardinian subjects, and that the stocks of produce waiting for shipment, nominally belonging to native merchants, are destined for the payment of advances made them by commercial houses in London, on which latter would fall the loss were Punta Arenas to be destroyed.

I have, &c.

The Earl of Malmesbury. ALLAN WALLIS.

No. 185.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. May* 3.)

My Lord, *Washington, April* 18, 1859.

In obedience to the instruction given to me in your Lordship's despatch of the 1st ultimo, I took an opportuity, on the 13th instant, of mentioning to General Cass that Her Majesty's Government are endeavouring, in accordance with the policy explained in your Lordship's despatch to Lord Napier, dated the 8th December last, to settle with the Government of Guatemala, on the basis laid down in the Clarendon-Dallas Treaty, the frontier of Belize, so far as it is conterminous with that Republic.

General Cass expressed the satisfaction with which he received this communication as a proof that Her Majesty's Government desired to acquaint the President, in a frank and open manner, with such of their proceedings as were connected with the question of Central America.

General Cass, in the course of a conversation which ensued, spoke strongly respecting the perfect confidence entertained by the President that eventually Her Majesty's Government would carry out, with the most absolute good faith, all the arrangements respecting Central America, as they had been communicated to the Government of The United States. He added, however, that the conclusion by Sir William Ouseley of a Treaty of Commerce and Transit with Nicaragua, without a simultaneous co-arrangement respecting the Mosquito Protectorate, had caused considerable agitation in this country, and had given rise to attacks upon the President in the public Press.

To-day, however, the General informed me that more recent intelligence had proved to the President that the delay in concluding the co-arrangement respecting the Protectorate had proceeded exclusively from the Nicaraguan Government, and was in no degree to be attributed to the British negotiator.

General Cass went on to say that he had, since I last saw him, received a Treaty which had been negotiated by the American Plenipotentiary, General Lamar, on the basis of that commonly called the Cass-Yrissari Treaty, and had been ratified by Nicaragua. This Treaty, he said, was entirely acceptable to the President except in one point: it still contained an Article relative to the execution of the laws of The United States against filibusters. This Article was less objectionable in form than the Article on the same subject in the Treaty recently concluded by Sir William Ouseley: still, the stipulations appeared to be undignified and superfluous. He did not, however, now apprehend any serious difficulty on that point with Nicaragua. The President would probably let the matter rest for the present; would, perhaps, wait to see what course Her Majesty's Government took respecting the Article on the same



It is more than ever to be lamented that the Government of The United States should not have found the means of effectually defeating the attempts of these piratical marauders; for it seems from a despatch from Sir W. Ouseley, of which I inclose a copy, that the main difficulty which has retarded the conclusion of the Treaty with Nicaragua respecting the Mosquito territory has been the threatened attack of Walker and his followers.

Your Lordship is instructed to read Sir W. Ouseley's despatch to the President and to the Secretary of State of The United States.

I am, &c.

Lord Lyons. MALMESBURY.

No. 187.—*The Earl of Malmesbury to Lord Lyons.*

My Lord, *Foreign Office, May* 6, 1859.

I inclose, for your Lordship's information, a copy of a despatch addressed by General Cass to Mr. Dallas respecting the Central American negotiations, which has been communicated to me by Mr. Dallas.

I also inclose a copy of an instruction which I have addressed to Sir W. Ouseley with reference thereto.

I am, &c.

Lord Lyons. MALMESBURY.

No. 188.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

Sir, *Foreign Office, May* 9, 1859.

I have received your despatch of the 31st of March, and I have to state to you that, with one exception, Her Majesty's Government accept as satisfactory the reasons which you assign for not having sooner proceeded to negotiate the Convention relative to the Mosquitia territory; that exception being your renewed reference to the impediments thrown in your way by the filibusters which Her Majesty's Government have not heard of, there not having been any fresh invasion of the territory of Nicaragua by filibusters since their failure in 1857.

Her Majesty's Government now expect you to bring the Treaty respecting Mosquito to an immediate conclusion, in order that it may be ready for ratification together with the General Treaty, and as soon as both the Treaties are signed and ratified by the Nicaraguan Government in the terms laid down in your instructions, you will at once return home without delay, and bring the Treaties with you.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 189.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. May* 10.)
(Extract.) *Washington, April* 25, 1859.

I HAD the day before yesterday an interview with General Cass, in the course of which he expressed himself upon the affairs of Central America, in very nearly the same terms which he used in the conversation on that subject, of which I had the honour to make a report to your Lordship in my despatch of the 18th instant. He repeated on this occasion, that the new Treaty with Nicaragua was completely satisfactory, with the single exception of the Article relative to "filibustering," and that this Article would not perhaps be absolutely inadmissible, if it should be explained by a declaration that it did not pretend to control the legislative action of The United States, but provided only for the due execution of such laws as Congress might from time to time enact. Still the Article was, he said, offensive and undignified, and the Treaty would hardly be ratified unless it should be expunged. There was not, however, any necessity for the President to come to a positive decision immediately; nothing definitive could be done until the Senate should reassemble in the winter. The President would perhaps wait to see what course Her Majesty's Government would take with respect to the much stronger Article on the same subject in Sir William Gore Ouseley's Treaty.

General Cass proceeded to read to me an instruction, couched in forcible, and indeed menacing language, which he had addressed to General Lamar, The United States' Minister to Nicaragua, to be communicated to the Government of that State, and which, he said, would be laid before your Lordship by Mr. Dallas. I observed to General Cass that the state of affairs had considerably improved since that instruction was written; that the principal grievance, the non-ratification of the Cass-Yrissari Treaty, had been removed by



the pressure of fears perhaps not altogether unreasonable, and that their conduct had not been so violent as at first reported. He was convinced that the British Plenipotentiary was not to blame for the delay with regard to the abandonment of the Mosquito Protectorate; nevertheless, the delay was unfortunate, and had annoyed the President, because it gave a colour to the insinuations against the American Cabinet, and against Her Majesty's Government, which abounded in the opposition newspapers.

I said to General Cass that Her Majesty's Government were, I knew, as much displeased as he himself was in the delay in concluding the Protectorate Treaty; that Nicaragua had no right to expect to reap the advantage of the Treaty of Commerce and Transit, until she had agreed to the stipulations respecting the Protectorate, which were of an importance at least equally pressing in the eyes of Her Majesty's Government; that although the Treaties had not been concluded simultaneously, I thought it probable that the ratifications would nevertheless be simultaneous.

General Cass expressed very great satisfaction with what I had said. He dwelt upon the importance of terminating as expeditiously as possible, not only this matter of the Protectorate, but also the negotiation with Honduras, and the whole Central American question. He said that he did not doubt that Her Majesty's Government were entirely of this opinion, and that he had implicit confidence in their sincerity and good faith.

General Cass concluded the conversation by telling me that he considered the Central American question to be in a fair way to be soon settled.

The Earl of Malmesbury. LYONS.

No. 190.—*The Earl of Malmesbury to Lord Lyons.*

MY LORD, *Foreign Office, May* 11, 1859.

I INCLOSE for your Lordship's information, a copy of a despatch from Sir W. Ouseley, explaining his proceedings with reference to the negotiation of the Treaty with Nicaragua relative to the Mosquito territory. I also inclose a copy of my answer to Sir W. Ouseley.

I am, &c.

Lord Lyons. MALMESBURY.

No. 191.—*M. de Marcoleta to the Earl of Malmesbury.*—(*Rec. May* 12.)

M. LE COMTE, *Paris, le* 11 *Mai*, 1859.

UN messager spécial, arrivé à Paris par le dernier courrier venant des Indes Occidentales, a été chargé de remettre, et a, en effet, remis, dans cette Légation le Traité d'Amitié, de Commerce, et de Navigation signé à Leon, le 18 Février dernier, par le Plénipotentiaire de

Sa Majesté Britannique et par celui de la République de Nicaragua.

Le Traité est accompagné de la ratification du Gouvernement et du pouvoir nécessaire pour procéder à l'échange des ratifications.

D'un autre côte, votre Excellence m'a fait l'honneur de me faire savoir, par sa lettre du 23 Avril dernier, que le Gouvernement de Sa Majesté désire y introduire quelques modifications. Il est à présumer que votre Excellence a renvoyé ce Traité à Sir W. G. Ouseley pour les effets convenables.

Je dois, cependant, M. le Comte, rendre compte à votre Excellence de la réception du Traité. En m'acquittant de ce devoir et en attendant la réponse que votre Excellence voudra bien me faire parvenir à ce sujet, je m'empresse de lui réitérer l'assurance, &c.

The Earl of Malmesbury. J. DE MARCOLETA.

No. 192.—*The Earl of Malmesbury to M. de Marcoleta.*

SIR, *Foreign Office, May* 14, 1859.

I HAVE the honour to acknowledge the receipt of your letter of the 11th instant, stating that although you are aware, from my letter of the 23rd of April, that Her Majesty's Government desire to introduce certain modifications into the Treaty signed by Sir W. Ouseley with the Government of Nicaragua, and you presume, therefore, that I have sent that Treaty back to Sir W. Ouseley, you think it right to inform me that a special messenger has arrived at Paris bringing you the Treaty and its ratification by the Nicaraguan Government.

In conveying to you my thanks for this communication, I beg leave to inform you that it is perfectly true that I have sent the Treaty back to Sir W. Ouseley, because certain amendments had been introduced into it which could not be accepted by Her Majesty's

No. 194.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received May* 19.)

MY LORD, *San José, Costa Rica, April* 6, 1859.

I HAVE the honour to forward to your Lordship copy and translation of the reply of the President of Costa Rica to my Address to his Excellency (of which a copy was inclosed in my despatch of the 2nd instant) on presenting the Queen's letter accrediting me as Her Majesty's Envoy Extraordinary and Minister Plenipotentiary.

I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Address of the President of Costa Rica to Sir W. G. Ouseley.*

MOST EXCELLENT SIR, (Translation.)

IT is highly gratifying to me to receive Sir William Gore Ouseley as Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary.

The relations of good understanding and friendship which have for many years united the Government of Her Majesty the Queen of England with the Government of this Republic, render the reception of your Excellency the more agreeable to the President of Costa Rica.

The honourable antecedents of your Excellency quite correspond with the greatness and reputation of the Government which has accredited you, and of the great nation which has always carried out the principle proclaimed by its laws in favour of the lesser nations, thus greatly tending to establish the equilibrium of the relations existing between all the civilized countries of the earth.

If the people of Costa Rica, comprehending the solemnity of their duties, have known how to fight and to conquer in the defence of their country and of their religion, they and their Government have always relied on the good opinion and sympathy of the Great Powers who, like England, have favoured them with their friendship and moral support.

The Government of Costa Rica hopes that if, unhappily, its territory should be again menaced by piratical invasions, the justice of its cause, and the valour and fortitude of its sons in its defence, would merit the approbation which righteous, great, and famous nations accord to a people which fulfils with honour and loyalty the obligations of patriotism.

I do not doubt that your Excellency, meriting, as you do, the entire respect of the Government of this Republic, will contribute efficaciously to render still more intimate the friendly and commercial relations with Great Britain by a reciprocity of cordial sentiments between the two countries.

I maintain this conviction; and in the meanwhile I will endeavour that your Excellency's stay in Costa Rica shall be as agreeable as possible in the midst of our dawning society.

I have spoken.

No. 195.—*Mr. Wyke to the Earl of Malmesbury.*—(*Rec. May* 19.)
(Extract.) *Guatemala, March* 31, 1859.

I HAVE the honour to acknowledge receipt of your Lordship's despatches of the 16th ultimo, together with their inclosures, informing me that Her Majesty's Government being desirous of arranging with that of Guatemala the question of limits between the British Settlement of Belize and the Republic of Guatemala, had determined to entrust this affair to my hands.

I have not yet received my full powers from Sir William Gore Ouseley; but I still hope to do so in time to enable me to leave Guatemala for England on the 1st of May next, as already announced to your Lordship. My departure, however, will, of course, now depend on the progress or otherwise of the negotiations which your Lordship has entrusted to my care.

The Earl of Malmesbury. C. LENNOX WYKE.

No. 196.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. May* 24.)
(Extract.) *Washington, May* 10, 1859.

I YESTERDAY in obedience to the orders conveyed to me by your Lordship's despatch of the 21st ultimo, explained to General Cass the course pursued by Her Majesty's Government in regard to the Treaty signed by Sir William Gore Ouseley with the Government of Nicaragua on the 18th of January last.

I pointed out to General Case that Sir William Ouseley had consented to various modifications of the terms which he had been



objected to by Her Majesty's Government. Sir William Ouseley had, moreover, been repeatedly directed distinctly to inform the Government of Nicaragua that Her Majesty's Government regarded the object of his mission, that is, the conclusion of the Treaty of Commerce and of the Treaty respecting the Mosquito Protectorate, as a whole; and that one Treaty would not be ratified without the other.

I had a fortnight previously been enabled by information afforded me by your Lordship's despatch of the 30th of March last, to explain to General Cass the sentiments of Her Majesty's Government in regard to those matters.

Nevertheless General Cass appeared to receive with very remarkable satisfaction the more formal and definitive communication which, in execution of your Lordship's orders, I made to him yesterday. He said very emphatically that the course pursued by Her Majesty's Government was most honourable, and that the President would be extremely gratified by my communication.

With respect to the recent Treaty between The United States and Nicaragua, General Cass said, that upon examination, it did not appear to be all that could be wished; still the President was prepared to accept the whole of it, with the single exception of the clause concerning filibustering expeditions.

The Earl of Malmesbury. LYONS.

No. 197.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

SIR, *Foreign Office, May* 25, 1859.

I HAVE received your despatch of the 30th of March last, in which you transmit a copy of a communication from the Nicaraguan Minister for Foreign Affairs, in regard to the Draft of Convention proposed to Nicaragua by Her Majesty's Government respecting the Mosquito territory.

As the Nicaraguan Minister has only described the nature of the modifications which his Government desires, without submitting a regular counter-Draft of Convention, it is not possible for Her Majesty's Government to express a decided opinion in regard to them. It is not clear whether the Nicaraguan Minister proposes to suppress, or to preserve, such passages of the Draft of Convention as are not specifically superseded by the modifications mentioned in his letter. For instance, it does not appear whether the proposal of Señor Zeledon, that a sum shall be allotted for the instruction of the Mosquito Indians, is intended to be in addition to, or in substitution for, the stipulation in the Draft Convention that a pecuniary indemnity shall be given to the Mosquito King for his interest in the territory to be ceded to Nicaragua. If it be intended as an addition, there would be no objection to it; but if as a substitution, Her Majesty's Government could not assent to it,

Neither could Her Majesty's Government assent to the proposed stipulation by which Great Britain would be bound indefinitely to continue her protection of the Mosquito coast until the conclusion of a joint arrangement between Great Britain, The United States, and Nicaragua. The utmost that Her Majesty's Government would consent to undertake, is to continue the British protection of the Mosquito territory for the period of one year after the signature of the Convention, so as to give Nicaragua time to prepare for its defence; it being, of course, understood that the Nicaraguan Government is at liberty to take the necessary military measures for that purpose within the territory.

I inclose the Draft of an Article to this effect, which you are at liberty to insert in the proposed Convention.

I may say generally, in regard to the modifications proposed by Señor Zeledon, that, with the exception of the two to which I have already referred, they do not appear to be of such a nature as to involve any insuperable difficulties. If you find it impossible to obtain the Convention in the terms of our Draft, your course must be to procure a counter-Draft from the Nicaraguan and Costa Rican Governments, and transmit it to me. Her Majesty's Government will then consider it, with a sincere desire to make the arrangement as acceptable to the Government of Nicaragua as may be consistent with the duty they owe to the Mosquitos, and with their own desire to put an end to the protectorate at the earliest possible period.

I am, &c.

Sir W. G. Ouseley. MALMESBURY.

(*Inclosure.*)—*Draft of Article.*

In order to afford to the Republic of Nicaragua the necessary



officers in arresting American citizens, and in seizing two steamers belonging to the White Company.

It is so very important to correct authoritatively the misrepresentations which are continually put forward here respecting the views and proceedings of Her Majesty's Government with regard to Central America, that I thought it would be desirable to make General Cass acquainted with the nature of the instructions to Sir William Ouseley mentioned above. I accordingly took advantage of an opportunity which occurred in the course of a conversation which I had with the General the day before yesterday, and communicated to him verbally the purport of those instructions.

I have, &c.

The Earl of Malmesbury. LYONS.

No. 199.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received June* 1.)

(Extract.) *San José, Costa Rica, April* 23, 1859.

After the arrival of President Mora at Punta Arenas, the day previous to his embarkation on board the French Admiral's ship, his Excellency wrote to me requesting that he might have a passage in Her Majesty's ship *Vixen* on his return from San Juan del Sur, for which I accordingly applied to Captain Lambert. I have the honour to forward copies of the correspondence which took place on this occasion.

As I had in the course of different conferences with the President stated to his Excellency that I was most anxious for the immediate settlement of the Mosquito and Greytown questions, and as he fully confirmed the idea which I had entertained, and to which I have referred in former correspondence, viz., that the Government of Nicaragua would not or could not enter into the required engagements without consultation with this Government, indeed, as it looked to the co-operation of Costa Rica for the means of carrying into effect the proposed Treaty, and more especially as President Mora declared his readiness to do all in his power to further the wishes of Her Majesty's Government in these and other matters, I availed myself of the opportunity to forward a letter to Señor Zeledon under flying seal to General Martinez, to be delivered by President Mora, pointing out the expediency of the immediate conclusion of the Mosquito Treaty.

President Mora assured me that he thought that the result of his meeting with General Martinez would be to remove the chief difficulties that prevented the Nicaraguan Government from at once concluding the proposed Treaty.

The cession of the protectorate of Mosquitia and of Greytown has long been desired by the Central American Governments,

especially by those of Nicaragua and Costa Rica. The delay in concluding the proposed Convention arises from many real difficulties in carrying its clauses into effect. The Nicaraguan Government had to send to Greytown, to Matagalpa on the Mosquito frontier, and especially to this capital in order to ascertain the disposition and state of the present municipality of Greytown, the position and feelings of the Indians of Mosquito, and, lastly, whether they could count on the military and financial support of Costa Rica, so as to be enabled to carry into effect the proposed arrangements. All these communications required some weeks at least.

I, both verbally and in writing, have suggested that they should at once accept the general principles of the Treaty.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure* 1.)—*Señor Mora to Sir W. G. Ouseley.*

SIR, (Translation.) (*No date.*)

LAST evening, at 8 o'clock, I had the pleasure of receiving a visit from the Commander of the English war-steamer *Vixen*, who was good enough to place at my disposal the vessel under his command; but having accepted a passage on board the "Andromède," which the French Admiral had kindly offered to me, I have only been able to accept the services of the *Vixen* for my return from San Juan del Sur. This fortunate opportunity, which I owe to your orders and good offices, has determined me to make the voyage; for, otherwise, not being able to calculate on the time of my return, I could not have decided on doing so.

As, until my arrival at Esparza, I was not able to resolve on my departure, I had not said anything to you about the Memorandum (on the heads of the Mosquito Convention) which you were good



It appears that your Excellency wishes that the *Vixen* should be at San Juan del Sur on or about the 26th instant. I have accordingly requested Captain Lambert to be there at that time, and to forward from thence this letter to your Excellency.

With reference to the notes on the Mosquito Treaty which I had the honour to leave your Excellency on your departure, I feel convinced, from your remarks, that your Excellency quite understands the importance of the prompt settlement of that question with the Government over which your Excellency presides, conjointly with that of Nicaragua, in the mode proposed by Her Majesty's Government, if only to secure the advantages of the Treaty of Friendship signed at Leon. For in order to carry into effect beneficially the clauses protective of the neutrality of the transit routes, the Mosquito question must previously be settled, and not afford any opening, or even pretext, for difficulties or disputes from whatever quarter. The ratification, therefore, of the General Treaty will await the signature of that respecting Mosquitia. The Nicaraguan Government does not seem quite to understand the exigency of this.

The details of the settlement of the Mosquito question, and that of Greytown, which seemed to embarass the Nicaraguan Government, can be arranged hereafter, when once the principles laid down are mutually agreed upon by the signature of the Convention.

I should much regret that this signature should be postponed. There are many reasons why delay in completing this important preliminary should be avoided.

Trusting that your Excellency will have a prosperous and agreeable journey, I have, &c.

Señor Mora. W. G. OUSELEY.

(*Inclosure* 3.)—*Sir W. G. Ouseley to Commander Lambert.*

SIR, *San José, April* 18, 1859.

WITH reference to your letter of the 12th instant, I beg to thank you for the announcement of your arrival at Punta Arenas, and of your readiness to convey this mission to any ports on this coast. It will not be possible for me to leave San José at present.

Captain-General Mora, President of Costa Rica, has written to me requesting that the *Vixen* should proceed to San Juan del Sur, to bring his Excellency back to Punta Arenas on or about the 26th or 27th instant. I have, therefore, to request that, if not inconvenient to the service or yourself, you will be good enough to take charge of the inclosed letter to President Mora, which is to be forwarded to his Excellency immediately on your arrival at San Juan del Sur, and the President will then embark on board the

Vixen on his return hither. On his return I shall be able to inform you as to my future movements. I have, &c.

Commander Lambert. W. G. OUSELEY.

P.S. I also inclose a despatch for the President of Nicaragua.

W. G. O.

(*Inclosure 4.*)—*Sir W. G. Ouseley to Señor Zeledon.*

SIR, *San José, April* 18, 1859.

I AVAIL myself of the departure of Captain Lambert to thank you for your letter of the 11th ultimo, the contents of which were very interesting.

Captain Lambert sails with the *Vixen* from Punta Arenas for San Juan del Sur to bring back the President Mora. In the hope of your being at Rivas, I will add a few lines on the subject of the Mosquito Treaty.

Her Majesty's Government has not hesitated, as your Excellency will have perceived, to cause the coasts of Nicaragua to be protected, at the request of its Government, against invasion by filibusters. By the Treaty of the 18th of January, a similar protection was to have been extended to the transit route across Nicaragua. In order, however, to secure that benefit for Nicaragua and Costa Rica, an absolutely necessary preliminary will be, the settlement of the Mosquito question (at least, its general principles) in the mode already communicated to your Excellency, in order to avoid all motive or pretext for difficulties or opposition to its execution from any quarter.

His Excellency the intelligent Governor of Costa Rica is fully aware of the urgency of the case, and perceives that, for many reasons, no delay should take place in the conclusion of the definitive

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ment. The sovereignty of Nicaragua being fully admitted, the conditional clause respecting the Indians cannot be a subject of difficulty, but may, on the contrary, be rendered highly useful to Nicaragua and Costa Rica.

If your Excellency could make it convenient to meet me in a short time in order to sign the Treaty, I think it would have the happiest result. Perhaps your Excellency would meet me at Punta Arenas, or at San Juan del Sur. If so, I should gladly arrange to be there when you may appoint. But I should deplore any avoidable delay, as it might neutralize what we have already done.

Pray accept my best wishes, and the compliments of Mr. Synge and my family, and believe me, &c.

Señor Zeledon. W. G. OUSELEY.

P.S.—I have just received a letter from the captain of the *Havanna* frigate, who announces his early arrival at Punta Arenas.

W. G. O.

No. 200.—Sir W. G. Ouseley to the Earl of Malmesbury.
(Received June 1.)

(Extract.) *San José, Costa Rica, April 23, 1859.*

WITH reference to Señor Zeledon's note of the 8th ultimo, embodying a *quasi* counter-project for the settlement of the Mosquito and Greytown questions, which I had the honour to transmit to your Lordship in my despatch of the 30th ultimo, I beg leave to submit a few remarks.

It seems to me that this note was written for the purpose of showing that the subject had been taken without delay, as promised, into the serious consideration of the Government, rather than with a view to its immediate settlement as between Great Britain and Nicaragua. The real difficulties to be met are: provision for the future government of Greytown; its protection from filibusters, as also that of the coasts of Mosquitia. In addition to which, the financial arrangements in favour of the Indians cause much discussion.

Although no mention is made of the joint action of Costa Rica in this matter, and although no reference to the financial and military aid from this State, for which Nicaragua hopes, has ever been made to me by Señor Zeledon, I feel assured that until the two Governments come to an understanding on these matters, the Nicaraguan Minister will not venture to sign the Treaty on the part of his Government.

Señor Zeledon's note of the 8th of March accepts the general

principles of the Treaty, although it transposes certain clauses, and alters their wording.

1. He wishes that the "eminent domain" over Mosquitia, now ceded, should be clearly defined. This affords an opening of which Her Majesty's Government may avail themselves, should they think proper, for preventing evasion of the conditions favourable to the Mosquito Indians.

I ascertained, when first the technical "eminent domain" was insisted on at Leon, that there existed a latent hope that, were this "eminent domain" admitted, it would give unconditional sovereignty to the Government of Nicaragua, and thus leave the Indians to be dealt with as they pleased. It was for this reason that I pointed out the conditions affecting the Indians, regarding which I do not now apprehend any refusal on the part of Nicaragua.

2. Señor Zeledon restricts the proprietary rights of the Mosquito Indians to the "superficial" use of the land. This is intended to reserve the right of mining to the Government of Nicaragua. It was attempted, with a considerable degree of persistence, to refuse the right to mines and mining to British subjects in the General Treaty. This, of course, I would not admit. In the case of the Mosquito Indians, it may not be thought requisite to secure to them the mining privileges, from which the Nicaraguan Government is anxious to exclude them.

3. Both the Minister of Nicaragua and of Costa Rica have assured me that there is now no territorial question pending between their respective Governments, and that, *quoad* the Mosquito Treaty, they may be considered, as far as limits are concerned, as one Government.

I trust that this is also applicable to the future Government of Greytown (Clause No. 6), and that no conflicting claims to juris-



and guarantee of Great Britain should be invoked, until a joint Treaty with The United States be concluded, is not unnatural. As I have had the honour more than once of stating to your Lordship, were all protection withdrawn from the Mosquito coast, it would in a few weeks be invaded by filibusters, a result foreseen and desired by a party in The United States; nor could Nicaragua or Costa Rica prevent it. This is, in fact, the great difficulty. As long as Her Majesty's forces protect the Atlantic coast, the Governments of Nicaragua and Costa Rica would most gladly assume a sovereignty that is, and long has been, an object of their ambition. But if they think that by the Treaty they can only receive this accession of territory under the penalty of offering their whole flank defenceless to the attacks of filibusters, they naturally wish to secure some protection before they commit themselves to so perilous a condition.

Your Lordship will have remarked that it has been a constant endeavour during the whole negotiation with Nicaragua to give such extension to the protective clauses as would not merely have guaranteed the neutrality of the transit routes, but have created a virtual protectorate of the whole State. Against this I was constantly obliged to guard. Under any circumstances, the Nicaraguan Government would scarcely have ventured even to commence the negotiation of the Mosquito Convention, until the partial protection provided in the General Treaty had been granted.

The Earl of Malmesbury. W. G. OUSELEY.

No. 201.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received June* 1.)

(Extract.) *San José, Costa Rica, April* 24, 1859.

THE President of Costa Rica sailed on the 13th instant from Punta Arenas for San Juan del Sur on board the French flag-ship *Andromède*, in order to proceed to Rivas, to be present at the inauguration of the works of the interoceanic canal. General Martinez, President of Nicaragua, is also to attend on that occasion. M. Belly, with a considerable number of engineers, workmen, and others (reported to be increased by the late arrival from Europe of a second party of officers and late labourers engaged for the construction of the canal), has for some time awaited the arrival of the two Presidents and their respective suites.

President Mora was accompanied by Señor Toledo, Minister of Foreign Relations, and his son as Secretary, and several officers in the employment of this Government; and it is supposed that General Martinez will also bring with him some of the principal members of his Government.

The Earl of Malmesbury. W. G. OUSELEY.

No. 202.—Sir W. G. Ouseley to the Earl of Malmesbury.
(Received June 1.)

MY LORD, *San José, Costa Rica, April 28, 1859.*

WITH reference to the tenor of your Lordship's late despatches, and to the instructions that I have had the honour recently to receive, directing me to inform the Nicaraguan Government that the General Treaty would only be ratified simultaneously with that respecting Mosquitia, I beg leave to mention that, some time previous to the receipt of those instructions, Señor Zeledon was made aware that the two Treaties were to be negotiated together and were to form a whole. Indeed, such was the understanding from the commencement of the negotiations.

So far from there being any reluctance on the part of the Central American Governments to gain possession of Mosquitia and Greytown, such an acquisition has been for years much desired by them.

At this moment, a similar desire is felt, especially by Nicaragua and Costa Rica; and I trust that, before this despatch reaches your Lordship, the obstacles to the immediate acceptance of the terms proposed will have been explained by my correspondence.

While I was at Leon, the attempts of the filibusters were confessedly the motives for delay in completing the arrangement; although I then suspected that a reference to Greytown and the Mosquito territory, and especially the necessity for concerting measures with Costa Rica, prevented Nicaragua from acting as promptly and independently as I had hoped. Since my arrival here, my suspicions have been completely confirmed.

I have had the honour of bringing these points to your Lordship's notice in former despatches, but as the communications with the Foreign Office are uncertain, I have recapitulated them.

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(*Inclosure.*)—*Sir W. G. Ouseley to Señor Zeledon.*
(Extract.) *San José, March* 29, 1859.

I EARNESTLY hope that the conclusion of the Mosquito Treaty will be hastened, as I will not conceal from you that Her Majesty's Government, not perhaps fully aware of the great embarrassments under which Nicaragua labours, arising out of the movements of the filibusters and other causes, and seeing that unless the cession of the Protectorate and other arrangements be soon formally completed by the signature of the Mosquito Convention, much misunderstanding and difficulty is likely to arise, that may eventually prevent or greatly interfere with the beneficial results of some of the clauses of the Treaty affecting the transit, feels the necessity for a speedy settlement of the Mosquito and Greytown questions, in order not to render the Treaty now sent to England inoperative.

It is under these circumstances that I have written, in conformity with the sense of recently received despatches, the accompanying notes, to which I request your early attention; and if it be desired by the Nicaraguan Government that the Treaty already signed should be carried into effect, and that the good understanding that I have endeavoured to cultivate should continue, no time should be lost in completing the Mosquito Treaty.

Señor Zeledon. W. G. OUSELEY.

No. 203.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. June* 4.)

MY LORD, *Washington, May* 23, 1859.

I HAD the evening before last the honour to receive your Lordship's despatch of the 6th instant, directing me to read to the President and Secretary of State of The United States Sir William Ouseley's despatch to your Lordship of the 2nd ultimo, in which he states that the principal difficulty which has retarded the conclusion of the Treaty with Nicaragua respecting the Mosquito territory has been the threatened filibustering attack of Walker and his accomplices.

General Cass has been so much occupied that it has been difficult to obtain an interview with him. Perceiving, however, in the newspaper an announcement that Walker had left San Francisco and had arrived with 300 followers on board a steam-vessel at Acapulco, on the western coast of Mexico, I made a point of seeing the General this morning and reading to him Sir William Ouseley's despatch.

General Cass, who was much pressed for time, merely observed that he wished it was as easy to devise means for stopping filibustering expeditions as it was to point out the evils of them.

He promised, at my request, to ask the President to fix a time at

which I might wait upon him for the purpose of reading to him also Sir William Ouseley's despatch. I have, &c.

The Earl of Malmesbury. LYONS.

No. 204.—*The Earl of Malmesbury to Sir W. G. Ouseley.*

MY LORD, *Foreign Office, June* 8, 1859.

I HAVE received your despatch of the 23rd of April last, in which you report that you had requested Captain Lambert, commanding Her Majesty's ship *Vixen*, to proceed to San Juan del Sur to convey the President of Costa Rica from that port to Punta Arenas.

You likewise report to me the steps you had taken to hasten the conclusion of the Mosquito territory Convention; and I have to acquaint you that Her Majesty's Government approve your proceedings in these matters. I am, &c.

Sir W. G. Ouseley. MALMESBURY.

No. 205.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. June* 12.)

MY LORD, *Washington, May* 30, 1859.

WITH reference to my despatch of the 23rd instant, I have the honour to inform your Lordship that, in obedience to your orders, I read to the President on the 25th instant, Sir William Ouseley's despatch to your Lordship of the 2nd April last, stating that the delay in concluding the Treaty for the abandonment of the Mosquito Protectorate had been principally occasioned by the apprehensions excited by the movements of the filibusters.

The President said that if Sir William Ouseley had persuaded the Nicaraguan Government to ratify the Cass-Yrisarri Treaty, the Government of The United States would have been in a position to protect Nicaragua effectually from filibustering attacks. Referring to Sir William Ouseley's statement that the late filibustering expe-



they having positive orders to stop him. General Cass said further, that the Cabinet were quite at a loss to divine Walker's intentions; it was rumoured that he had landed at Acapulco with the intention of offering his services to Juarez. In that case the American Government would have no power to interfere with him, as their laws permitted their citizens to take military service under any Government recognised by the Confederation and in amity with it.

I have, &c.

The Earl of Malmesbury. LYONS.

No. 206.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. June* 12.)

My Lord, *Washington, May* 30, 1859.

On the 25th and 26th instant I had some conversation with General Cass respecting the affairs of Nicaragua.

General Cass told me that General Jerez, the Nicaraguan Minister to The United States, was to return home on the 5th of next month, and that he had requested to be informed definitively, before his departure, of the intentions of the President with respect to the Treaty recently negotiated by General Lamar.

General Cass told me that he should state to General Jerez, in general terms, that the President accepted the whole Treaty, with the exception of the clause directed against what are commonly termed "filibustering expeditions." That clause the Government of The United States absolutely rejected.

There was, however, General Cass said, a reservation which he should have to make. He had observed in Article XXII of the Treaty signed by Sir William Ouseley, a clause which did not exist, either in the Draft with which Sir William Ouseley was furnished by Her Majesty's Government, or in General Lamar's Treaty.

The clause to which he referred stated, that in case of imminent danger to the lives and properties of British subjects, Her Majesty's forces might act for their protection without obtaining the previous consent of the Nicaraguan authorities. If this clause should be maintained in the new Treaty which Sir William Ouseley had been directed to sign, The United States would insist upon the same privilege being secured to them; in fact, they would require to be placed upon a perfect equality with Great Britain in this respect. General Jerez would be authorised to inform his Government that, upon this point being settled, and the "filibustering" clause struck out, the President would send the Treaty to The United States' Senate for ratification.

I saw General Jerez himself the day before yesterday. He confirmed the account given above of the intentions of The United States' Government; and he told me further that he hoped that, by negotiation with the American Companies holding contracts for the

construction of the interoceanic routes, he should be able, before his departure, to effect a compromise which would satisfy both the Companies themselves and the Government of The United States.

I have, &c.

The Earl of Malmesbury. LYONS.

No. 207.—Lord Lyons to the Earl of Malmesbury.—(*Rec. June* 12.)
(Extract.) *Washington, May* 30, 1859.

I PERCEIVE, by your Lordship's despatch to Sir William Ouseley of the 9th instant, of which you did me the honour to send me a copy in your despatch of the 11th instant, that Sir William is directed to bring the Treaty with Nicaragua respecting Mosquitia to an immediate conclusion; and, as soon as that Treaty and the General Treaty with the same State are signed and ratified, to return at once to England.

The frank and full explanation which your Lordship enabled me to give respecting the delay in the conclusion of the Treaty for the abandonment of the Mosquito Protectorate were most acceptable to the President, and produced a very remarkable effect on the tone of the public press. With a view to keep up the good feeling which has happily since prevailed, it would be very desirable that, before the intended departure of Sir William Ouseley becomes generally known in this country, I should be able to state distinctly the intentions of Her Majesty's Government with respect to the Treaty which remains to be negotiated with Honduras, in order to complete the settlement of the Central American questions.

It will be in your Lordship's recollection that in the despatch to Lord Napier dated the 8th of December last, of which he gave, by your Lordship's order, a copy to General Cass, it was stated that

[redacted]

No. 208.—Mr. Wyke to the Earl of Malmesbury.—(Rec. June 16.)

MY LORD, *Guatemala, April 28, 1859.*

MR. VICE-CONSUL PERRY has just reported to me that the Nicaraguan Congress distinctly refuses to ratify the Convention which Sir William Gore Ouseley had proposed to the Government of that Republic, for the settlement of the Greytown and Mosquito question.

It is to be regretted that Sir William did not secure the signature of Señor Zeledon, and the ratification of that Convention, before negotiating his Commercial Treaty with them, as they have now obtained all that they wanted, without giving us anything in return for that which has enabled them to conclude a Treaty with The United States on much more favourable terms to themselves than they otherwise would have been able to obtain.

I have, &c.

The Earl of Malmesbury. CHARLES LENNOX WYKE.

No. 209.—Mr. Wyke to the Earl of Malmesbury.—(Rec. June 16.)

(Extract.) *Guatemala, April 30, 1859.*

IT became evident that my negotiations must fail, unless I could hit upon a plan whereby the Government of Guatemala would find some inducement for agreeing to my terms.

Now, as the commerce of this State with Belize, and the Atlantic coast generally, has been falling off rapidly of late years, owing to the communication with the Pacific coast being so much easier from the existence of a good carriage-road between this city and the port of San José, it struck me that the compensation they claimed might in some sort be afforded if we aided them in the construction of a practicable cart-road to the port of Izabal, on the Atlantic coast, whereby the old commercial relations with Belize would be renewed and both Contracting Parties mutually benefited, without either appearing to receive a favour from the other.

As we are rapidly losing the carrying trade of this Republic, which the American steamers on the Pacific and the Panamá Railway are depriving us of, it becomes, of course, important, if possible, to turn the course of trade again into its old channels; and when, by so doing, we could, at the same time, establish the limits of our settlement of Belize, it appeared to me I should be justified in somewhat exceeding my instructions if, by so doing, I could bring about so positive a good.

Such being the actual state of the case, I did not hesitate to accept this responsibility, and, by so doing, I at last succeeded in getting this Government to accept the Convention word for word, and without a single alteration, on the condition that an Additional Article should be added to it, whereby both Contracting Parties

agree conjointly to use their best efforts, by the construction of a cart-road, for re-establishing the ancient communication between this capital and the Atlantic coast near Belize, whereby the commerce of England will benefit, on the one hand, and the prosperity of that portion of this Republic be materially increased on the other.

Thus modified, the Convention was this day signed by Don Pedro de Aycinena and myself, at the same time that its ratification by this Government was handed to me by him.

I have herewith the honour to inclose said Convention, and I trust, in signing it as it stands, that I shall not have incurred your Lordship's displeasure for having so far exceeded my instructions, when, by so doing, I consider that I have obtained a double advantage at the price of, comparatively speaking, a trifling sacrifice.

As I come home by the same packet that brings this despatch, I shall have the honour of communicating personally to your Lordship all further details with reference to this matter which it is necessary that you should be informed of.

The Earl of Malmesbury. CHARLES LENNOX WYKE.

(*Inclosure.*)—*Convention between Her Majesty and the Republic of Guatemala, relative to the Boundary of British Honduras.—Signed at Guatemala, April* 30, 1859.

[See Vol. XLIX. Page 7.]

No. 210.—*Mr. Wyke to the Earl of Malmesbury.*—(*Rec. June* 16.)

My Lord, *Belize, British Honduras, May* 14, 1859.

I had arrived thus far on my way home, when I received, last night, by the English mail, your Lordship's despatch of the 16th



on the time of session of the Congress in those States—I regret to say that the state of my health precludes the possibility of my remaining on here for an indefinite time, as my medical adviser considers that it is absolutely necessary for me at present to have rest and a change of climate, after an uninterrupted residence of 7 years in the tropics.

Should I eventually be destined to take Sir William Ouseley's place, I consider that I could only do so with advantage to the public service by, first of all, communicating verbally with your Lordship on the proper manner of conducting these negotiations, as well also as on the actual state of affairs in Central America at the present moment.

Hoping soon to have the honour of waiting on your Lordship, and offering all the information I am able to afford with reference to these matters. I have, &c.

The Earl of Malmesbury. CHARLES LENNOX WYKE.

No. 211.—*The Earl of Malmesbury to Lord Lyons.*

My Lord, *Foreign Office, June* 16, 1859.

With reference to your Lordship's despatch of the 30th ultimo, I have to observe that Sir William Ouseley's health having suffered from the climate of Nicaragua, Her Majesty's Government did not consider it desirable that his stay in Central America should be prolonged, and that they consequently instructed him to return home so soon as he should have concluded the Treaties which he had been charged to negotiate with the Republics of Nicaragua and Costa Rica.

They at the same time, however, sent to Mr. Wyke full powers to conclude a Treaty with Guatemala, defining the limits between that State and the Settlement of Belize, and they subsequently informed Mr. Wyke, in a despatch of which a copy is inclosed, that it was their intention to confide to him the negotiation of the other pending Conventions with the States of Central America.

Her Majesty's Government have learnt by the West India mail which has just arrived, that Mr. Wyke has concluded the Treaty with Guatemala respecting British Honduras, but the state of his health having obliged him to avail himself, as you will see by the inclosed despatch, of the permission which he had previously received to return home, some little delay must, much to the regret of Her Majesty's Government, take place before the further negotiations to which I have adverted can be carried through.

I am, &c.

Lord Lyons. MALMESBURY.

No. 212.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received June* 29.)

MY LORD, *San José, June* 1, 1859.

I HAVE the honour to transmit to your Lordship copy of a note that I sent by Mr. Vice-Consul Perry to Señor Zeledon, on the subject of the Mosquito and General Treaties.

I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Sir W. G. Ouseley to Señor Zeledon.*

San José, May 13, 1859.

THE Undersigned, &c. has the honour to request Señor Zeledon, &c. to have the goodness to inform him, at his earliest convenience, at what time, and in what place, he will be ready to meet the Undersigned for the purpose of concluding the Convention respecting Mosquitia and Greytown.

The Undersigned has already so clearly explained to Señor Zeledon the views and intentions of Her Majesty's Government in this matter, that it does not appear to him necessary to appoint an interview merely for the discussion of the terms of the Convention, or that the Plenipotentiaries should meet until the Nicarguan Government is prepared to come to a definitive settlement of the question, in the completion of which it is desirable that there should be as little delay as possible.

The Undersigned has been informed by his Government that they cannot accede to certain of the modifications agreed to by Señor Zeledon and himself in the Treaty of Friendship and Commerce, which can also be taken into consideration when the Plenipotentiaries meet for the conclusion of the Mosquito Convention; and as Her Majesty's Government have expressed their



Guatemala, which was signed by Mr. Wyke and the Plenipotentiary of Guatemala on the 30th of April last, for the settlement of the boundary between the Republic and British Honduras, and I am to desire that you will exchange the same against a similar instrument ratified by the President of the Republic.

I also transmit to you a certificate to be signed by you and the Guatemalan Plenipotentiary on the exchange of the ratifications. You will return it to me when you send home the Guatemalan ratification.

I am, &c.,

E. Hall, Esq. J. RUSSELL.

No. 214.—Lord J. Russell to Acting Consul-General Hall.

SIR, *Foreign Office, June 30, 1859.*

I HAVE to instruct you, in exchanging the ratifications of the Convention for the settlement of the boundary of British Honduras, to express to the Guatemalan Plenipotentiary, as by the particular order of your Government, the high satisfaction which they have derived from the proof of friendship afforded to them by the Republic in the prompt and frank conclusion of that Convention. Her Majesty's Government are firmly persuaded that the settlement of this question will tend to the benefit of both parties, as it cannot fail to confirm and strengthen the relations of friendship and good neighbourhood which exist between them.

You will also state that Her Majesty's Government entirely approve of the Article admitted into the Convention by Mr. Wyke, at the desire of the Guatemalan Government, whereby the two parties engage to co-operate for the establishment of a line of communication between the capital of the Republic and the coast of the Atlantic, at or near Belize; and they would be glad to be made acquainted with the views of the Guatemalan Government as to the best means of giving effect to that Article.

I am, &c.

E. Hall, Esq. J. RUSSELL.

No. 215.—Lord J. Russell to Acting Consul-General Hall.

SIR, *Foreign Office, June 30, 1859.*

I HAVE to instruct you, as soon as the exchange of the ratifications of the Convention defining the boundary of British Honduras shall have taken place, to announce the fact to Her Majesty's Superintendent at Belize, to whom a copy of the Convention will be transmitted by this mail. I am, &c.

E. Hall, Esq. J. RUSSELL.

No. 216.—Lord J. Russell to Lord Lyons.

MY LORD, *Foreign Office, July* 1, 1859.

I ENCLOSE, for your Lordship's information, a copy of a despatch from Mr. Wyke, reporting his having concluded with the Republic of Guatemala a Treaty defining the limits between that State and British Honduras. A copy of the Treaty is annexed, and I have to inform your Lordship that the same has been approved and ratified by Her Majesty. I am, &c.

Lord Lyons. J. RUSSELL.

No. 217.—Lord Lyons to the Earl of Malmesbury.—(Rec. July 4.)

(Extract.) *Washington, June* 21, 1859.

ON the 18th instant, I mentioned to General Cass that the great difficulty in the way of concluding the Treaty for the abandonment of the Mosquito Protectorate lies in the fear of Nicaragua that she will be unable to defend Mosquitia and Greytown from filibustering attacks when the British protection is withdrawn. So that now, I said, the Nicaraguans hesitate to accept what they were formerly so eager to obtain.

General Cass said that he must leave the solution of this difficulty to your Lordship: that, for his own part, he thought the best mode of treating it would be the use of very plain, distinct language, and the display of great firmness on the part of the British negotiator. He anticipated some advantages, he said, from the influence of General Jerez, the Nicaraguan Minister to The United States, who had returned home at the beginning of the month. General Jerez would, he trusted, explain the real views of The United States' Government to the Nicaraguans, and bring them to a more just sense of their own position and interests. They had certainly no real ground for apprehension respecting filibusters



No. 218.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. July* 16.)
(Extract.) *Washington July* 5, 1859.

YOUR Lordship has done me the honour to inform me, by your despatch of the 16th ultimo, that Her Majesty's Government had written to announce to Mr. Wyke, Her Majesty's Chargé d'Affaires at Guatemala, that it was their intention to confide to him such of the pending negotiations with the Central American States as should be left unfinished by Sir William Ouseley. Your Lordship has, however, added that Mr. Wyke was already on his way to England when this announcement reached him, and that consequently some little delay must, much to the regret of Her Majesty's Government, take place before these negotiations can be carried through.

I purpose to take a suitable opportunity of explaining verbally to General Cass this state of things.

The Earl of Malmesbury. LYONS.

No. 219.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. July* 16.)
MY LORD, *Washington, July* 5, 1859.

SINCE I wrote my immediately preceding despatch of this date relative to the negotiations in Central America, I have had a few minutes' conversation with General Cass.

The General told me that The United States' Plenipotentiary in Central America, General Lamar, was about to return home, and that it was not the intention of the President to accredit a Diplomatic Agent to Nicaragua until the Government of that Republic should remove from the Treaty which they had signed with General Lamar, the clause concerning "filibustering" expeditions, and ratify the remainder of the Treaty.

General Cass then asked me how the British negotiations were going on. I said that Sir William Ouseley was, by your Lordship's orders, urging in the strongest manner upon the Government of Nicaragua the adoption of the terms proposed by Her Majesty's Government for the abandonment of the Mosquito Protectorate; and that Mr. Wyke had already concluded with Guatemala a Convention determining the boundary of the Settlement of Belize. I added that Sir William Ouseley was very anxious that I should convince the Government of The United States that the delays which had so unfortunately occurred respecting the abandonment of the Mosquito Protectorate were in no degree attributable to him. I observed that Sir William had sent me ample information on this point, but that as I was aware that General Cass was very busy, I would not take up his time by entering into details at the moment. I had, I said, already been able to write to Sir William Ouseley to tell him that the General had, on more than one occasion, said to me

that he did not consider that it was Her Majesty's Plenipotentiary who was to blame for the delays.

General Cass then said that neither British nor American Plenipotentiaries could do anything with the Nicaraguans, who did not understand their own interests.

The General proceeded to ask me what had been done respecting the cession of the Bay Islands to Honduras.

I replied, that it had been the intention of Her Majesty's Government to confide the negotiation on that matter to Mr. Wyke, Her Majesty's Chargé d'Affaires at Guatemala, and that instructions to that effect had been sent to him by your Lordship. Mr. Wyke had, however, unfortunately been compelled by ill health to quit his post, and was already on his way to England when your Lordship's orders reached him. This might, I said, much to the regret of Her Majesty's Government, cause some little delay in the prosecution of the negotiation.

General Cass, without making any comment upon this explanation, passed on to another subject. I have, &c.

The Earl of Malmesbury. LYONS.

No. 220.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received July* 17.)

My Lord, *San José, June* 7, 1859.

Immediately after receiving Señor Zeledon's official announcement of the rejection by the Senate of Nicaragua of the Mosquito Convention, I wrote to that Minister a private and confidential letter urging him to hasten the conclusion of that Treaty, and asking him to let me know, confidentially, the real reasons for this opposition to the professed wishes of General Martinez and himself.

I have the honour to forward a copy of Señor Zeledon's answer.

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repugnance to making any payments to the Mosquito Indians "as tribute." The misapplication of this term I have thought it my duty to point out in a somewhat marked manner.

I shall probably have the honour of again addressing your Lordship before long on this subject, as I expect soon to obtain correct information respecting it from persons well-acquainted with the position and views of all the parties concerned.

I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

P.S.—I have also the honour to inclose a copy of a note from Señor Zeledon relative to the Mosquito question, which I received a few days before the communication of the 13th ultimo reached me.

W. G. O

(*Inclosure* 1.)—*Señor Zeledon to Sir W. G. Ouseley.*

(Translation.) *National Palace, Managua,*

ESTEEMED SIR, *May* 13, 1859.

BY the steamer which came to convey President Mora from San Juan del Sur to Punta Arenas, I received your private and confidential letter, dated the 18th of April, from San José, in which you acknowledge the receipt of mine of the 11th of March.

All your observations on the urgency of signing a Convention respecting Mosquitia have always been thoroughly concurred in by this Government; so that I should not hesitate to invite you to an early interview for that purpose, if, on the other hand, I did not feel some uncertainty as to your willingness to come to a compromise (or agreement) between the bases proposed by you and those put forward by this Government modifying that Convention, and which, from the tenor of your former communications, you appear already to have received.

I now, however, transmit you a further copy of them, and I trust that, when you wish to proceed (or to invite me) to a settlement of this question, you will be good enough to state to me definitively whether you do so with the intention of taking part in conferences which should alter the proposed Convention in the sense of the bases which I had the honour to communicate to you. Otherwise, I might expose myself to misunderstanding, and your Excellency might consider that you had been deceived.

I have, &c.

Sir W. G. Ouseley. PEDRO ZELEDON.

P.S.—I ought particularly to acquaint you that the Supreme Powers of Nicaragua are greatly opposed to Greytown being an independent city, although they would concede to its inhabitants

freedom of worship, exemption from duties on articles for their consumption, and trial by jury; and that they also most strongly object to having to pay a sum of money to the Mosquitos by way of tribute. P. Z.

(*Inclosure* 2.)—*Sir W. G. Ouseley to Señor Zeledon.*

EXCELLENT SIR, *San José, June* 7, 1859.

IN reply to your Excellency's confidential letter of the 13th May, I have the honour to state that, as regards the Mosquito Treaty, I can only refer you to the note I have already had the honour to forward to the Nicaraguan Government, to the effect that the Treaty of Friendship and Commerce will only be ratified conjointly with that for the settlement of the Mosquito question, which two Conventions, excepting in form, must be regarded as one Treaty; that I have no power to modify the proposed Convention; and that the pleasure of Her Majesty's Government respecting the counter-proposals from that of Nicaragua cannot, in all probability, be known here for some weeks to come. I cannot, however, encourage any expectation that Her Majesty's Government will consent to modify the original document placed in your Excellency's hands on my arrival at Leon.

Under these circumstances, it would not further the satisfactory settlement of the questions at issue if I were to meet your Excellency, unless the Nicaraguan Government be prepared to accept the Mosquito Treaty as proposed by Her Majesty's Government; while my absence from this capital would seriously interrupt the progress of the negotiations now in progress with the Government of Costa Rica.

With reference to your Excellency's explanation of the un-



obliges me to make through your Excellency on their extraordinary misconception. I have, &c.

Señor Zeledon. W. G. OUSELEY.

(*Inclosure* 3.)—*Señor Zeledon to Sir W. G. Ouseley.*

(Translation.) *National Palace, Managua,*

MOST EXCELLENT SIR, *April* 12, 1859.

THE Undersigned, &c., has the honour to reply to the esteemed communication of Sir W. Gore Ouseley, &c., dated the 22nd of March, from San José de Costa Rica, and to acquaint him that the answer which he requires relative to the Mosquito Convention proposed by his Excellency was sent to him on the 8th of March; and even if it had been lost, there has arrived to-day another confidential letter from Sir William Ouseley dated the 29th of that month, in which he mentions having at that time received it.

The tenor of that communication comprises the bases agreed upon by the Senate of this Republic, and recommended to the Government by way of answer to the project of Convention proposed by your Excellency, so that the Conferences may take place, and that in them the Convention may be agreed upon in terms founded upon those bases. In short, the Government of Nicaragua is disposed to settle the question in the manner which shall best reconcile the interests of the Mosquito tribe, the honour of Her Britannic Majesty, and the dignity and interests of the Republic of Nicaragua; and with this object it hopes for the return of Sir William Ouseley to this country, and entreats him, if his powers and instructions do not warrant his adoption of the necessary alterations, that he will be good enough to request such powers from Her Britannic Majesty's Government, for among those bases there are some of such a nature that this Government cannot modify them.

Notwithstanding this, the General Treaty can be ratified, and the relations between Her Britannic Majesty and Nicaragua becoming every day more intimate, will facilitate the arrangement of the Mosquito question. I have, &c.

Sir W. G. Ouseley. PEDRO ZELEDON.

No. 221.—*Sir W. G. Ouseley to the Earl of Malmesbury.*

(*Received July* 19.)

MY LORD, *San José, Costa Rica, June* 12, 1859.

IN conformity with the tenor of your Lordship's instructions, I have forwarded a Draft of the Treaty of Friendship and Commerce, as transmitted to me in your Lordship's despatch of the 23rd of March last, with the modifications and alterations that are alone admitted by Her Majesty's Government, to Señor Zeledon, Minister of Foreign Affairs of Nicaragua, calling his attention and that of his

Government to the expediency of a prompt conclusion of the Amended Treaty, together with that regarding Mosquitia.

I have the honour to send a copy of my note to Señor Zeledon, inclosing the draft. I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Sir W. G. Ouseley to Señor Zeledon.*

San José, June 10, 1859.

WITH reference to a former note mentioning that Her Majesty's Government had disapproved of some of the modifications in the Treaty of Commerce signed at Leon, the Undersigned, &c., has the honour to transmit herewith to Señor Zeledon, &c., a Draft of the Treaty of Friendship and Commerce that he has received from the Foreign Office, in which are inserted all the modifications that will be admitted by Her Majesty's Government in that Convention. Such of the additions or alterations agreed upon by Señor Zeledon and the Undersigned as are not included in the inclosed Draft, his Excellency will consequently regard as being considered inadmissible by Her Majesty's Government.

The Undersigned in requesting Señor Zeledon's immediate attention to the inclosed Amended Draft, with a view to its being taken into consideration by the Nicaraguan Government at their earliest convenience, so that its conclusion, together with that of the Mosquito Convention, be no longer delayed, has the honour, &c.

Señor Zeledon. W. G. OUSELEY.

No. 222.—*Lord Lyons to Lord J. Russell.*—(*Received August* 1.)

(Extract.) *Washington, July* 19, 1859.

ON the 15th instant I saw the President, and assured him that it was your Lordship's wish to treat with The United States'

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and the cession of the Bay Islands. I had informed him, by order of Lord Malmesbury, that fears of filibustering expeditions from The United States rendered the Nicaraguan Government unwilling to accept the sovereignty of Mosquitia, if the British protection should be withdrawn. These fears, he could assure me, were quite idle. He had taken such precautions as would, he believed, effectually prevent any filibustering expeditions leaving this country. At any rate, he was quite sure that if an expedition did succeed in setting out, it would be intercepted by The United States' cruizers. The cession of the Bay Islands to Honduras was, the President continued, still more important than the abandonment of the Mosquito Protectorate; towards settling this question he feared no progress had yet been made. He fully believed that Her Majesty's Government were quite as anxious as he was to get rid of all these difficulties; he had not the slightest doubt that the arrangements, as communicated to the Government of The United States, would be carried out with the most perfect good faith. It was, however, he said, in conclusion, of the utmost importance that he should be able to announce to Congress, upon its meeting in December, that the whole matter was definitely arranged.

On the following day General Cass requested me to call upon him at the State Department. Upon my presenting myself, he said that he wished to speak to me very openly and seriously upon a most important subject. There was now one, and one only matter, he continued, which could lead to any serious misunderstanding between The United States and Great Britain. The question of the right of search, which had been so frequently a cause of dissension, had, happily, been set at rest. If the Central American questions were also disposed of, nothing would remain to check the present tendency towards mutual confidence and kind feeling between the two Governments and the two nations.

At this point in the conversation Mr. Appleton, the Assistant Secretary of State, entered the room, and was invited by General Cass to remain with us.

The General, after recapitulating the observations he had just made, proceeded to say that the Government, as well as the principal statesmen of all parties, and, indeed, all men of sense in the Union, were totally averse to the idea of annexing any part of Central America to The United States; they rejected the notion altogether; they would not accept the Isthmus if it were offered them. There were, however, General Cass said, young and ardent politicians who were loud in their condemnation of the Clayton-Bulwer Treaty, who considered that the engagement not to exercise dominion over Central America was a sacrifice of interest and dignity, and an unjustifiable obstacle to the fulfilment of the "manifest destiny" of The

United States. If, at the opening of Congress, Great Britain should still be in possession of the Mosquito Protectorate and the Bay Islands, a violent outcry would, in all probability, be raised. Motions would be made to abrogate instantly the Clayton-Bulwer Treaty, indeed, it was difficult to assign any limit to the attacks which would be directed against the Cabinet, or to the attempts which would be made to force violent measures upon them. He was quite convinced that Her Majesty's Government would carry out, with the most scrupulous good faith, the arrangements upon which they had come to an understanding with The United States; but the essential point was to do this in time. It was impossible, he said, to overrate the importance of enabling the President to announce the conclusion of the whole affair, in his Message to Congress in December. He begged me, in the President's name, as well as in his own, to omit no effort to impress this upon your Lordship and upon Her Majesty's Government.

General Cass proceeded to speak of some of the Central American questions in detail. The Belize boundary had, he understood, been fixed in a satisfactory manner. Respecting Sir William Gore Ouseley's Transit and Commercial Treaty, there did not seem to be much to remark. But in what state was the negotiation respecting the abandonment of the Mosquito Protectorate? The difficulty in concluding this negotiation was, it seemed, raised by the Government of Nicaragua, who alleged their fear of filibustering expeditions as a reason for not agreeing to the Treaty proposed by Great Britain For his own part, General Cass said, he could not but believe, that if decided and energetic language were used by the British Plenipotentiary, the Nicaraguan Government would give way. For instance, that Government might very fairly be told, that if they refused to accept, without any more haggling, the very advantageous offers



given each other the mutual aid and support which would have been so advantageous.

General Lamar had resigned his office, and was expected at Washington at the end of the month. It would be desirable to appoint his successor without delay, but it was very difficult to find any one willing to undertake the mission, who combined a knowledge of the Spanish language with the other desirable qualifications.

It appeared (General Cass went on to say) that Sir William Ouseley did not intend to stay much longer in Central America, and that Mr. Wyke, who was to have treated with Honduras, had set out some time ago for England. By whom then was Great Britain represented in Central America? Could not Her Majesty's Government send out some man of undoubted skill and energy who would settle the whole matter out of hand? There must be many such men in England. Great Britain and The United States being agreed upon an arrangement, and that arrangement being extremely advantageous both to Nicaragua and Honduras, surely means might be found of concluding matters with those two petty States.

General Cass concluded by saying that he would entreat me again to use every means in my Power to make your Lordship aware of the extreme importance of settling all the questions once for all, before the meeting of Congress in December next.

I said to General Cass that no one could be more anxious than I was that an end should be put to these unfortunate causes of dissension; that I fully comprehended the evils that would only too probably ensue, if they should not be altogether removed before the meeting of Congress; and that I would not fail to report at length to your Lordship, as accurately as my memory would permit, what had been said by the President and by himself on the subject. After all that had happened, it was, I said, impossible to doubt that the British Government most heartily desired to settle the questions as soon as possible. They had consented to give up, in practice, their own interpretation of the Bulwer-Clayton Treaty; and had determined to surrender valuable rights and possessions in Central America. They were fully aware of the extent of the concession they had thought fit to make; but in this matter there were two considerations which they regarded as paramount to all others: the securing a transit route open upon perfectly free and equal terms to the commerce of all nations; and the maintenance of a cordial friendship with The United States. It could not be supposed that, after sacrificing so much to these two great considerations, Her Majesty's Government would, if it depended upon them, allow the advantages of their conciliatory policy to be hazarded by delays and difficulties raised by the Central American States. I would not deny that he and I, viewing matters from our own

position, and with our strong wishes regarding them, might not unnaturally be led to think that, amid the embarrassments of negotiating on the spot, the main object—that of removing speedily the causes of difference between Great Britain and The United States—had not been at all times kept fully in view. I had, however, received very detailed information from Sir William Ouseley respecting a part of his negotiation, and had been convinced that it was next to impossible that we, in The United States, could be fair judges of the innumerable difficulties with which the negotiator on the spot had to contend. Sir William Ouseley's present instructions were to urge the immediate settlement of the question of the Mosquito Protectorate by every possible means, and I was informed that he was pursuing that object with the utmost earnestness.

I would not fail, I said, to represent as forcibly as I could to your Lordship the necessity of using all possible expedition in completing all the negotiations. We were, I observed, already in the middle of July; my report of our conversation would not reach your Lordship till the beginning of August; if a fresh negotiator was to be sent out from England, time must be allowed for his preparations and his voyage. The Treaties must be concluded in Central America, be sent home to England for approval, and the intelligence of the approval be transmitted from London to Washington by the beginning of December at latest. Some of these delays might perhaps be avoided by direct communication between that place and Central America; still it would not be easy to get all this done in 4 months.

General Cass said that all these difficulties might, he thought, be surmounted by activity and decision; but certainly there was not a moment to lose. He felt convinced that I must perceive that the Government and the leading men in The United States were



No. 223.—Lord J. Russell to Lord Lyons.

(Extract.) *Foreign Office, August 4, 1859.*

HER Majesty's Government have had under serious consideration your Lordship's despatch of the 19th ultimo, respecting the question of Central America.

I have to acquaint your Lordship that Her Majesty's Government regret the delays that have been interposed to prevent the formal abandonment by Great Britain of the Mosquito Protectorate and of the sovereignty of the Bay Islands. Her Majesty's Government can make no promise that these intricate affairs will be concluded before the President's Message in December, but they will use their utmost endeavours to accomplish that object, and, if they fail, it shall be made clear that it was from no fault of theirs.

A fresh Mission is about to be sent to Central America, with a view to finish these wearisome negotiations.

At the same time, the Government of The United States will, I am sure, readily admit, that on all the coasts and in all the capitals of Central and South America, British interests are concerned, and British merchants require protection. That protection must be afforded by Her Majesty's naval forces, and no filibusters, pirates, or plunderers, will be allowed to disturb the peaceful commerce of Her Majesty's subjects.

Lord Lyons. J. RUSSELL.

No. 224.—Lord Lyons to Lord J. Russell.—(Received August 14.)

(Extract.) *Washington, August 2, 1859.*

I HAD, yesterday, some conversation with General Cass, respecting the British negotiations with the States of Central America.

The General introduced the subject by calling my attention to an article which appeared in the "New York Herald" of the 29th ultimo, respecting the Treaty recently signed by Mr. Wyke with the Republic of Guatemala. He said that this Treaty had given rise to violent attacks against Great Britain in the Press; that she was accused of "retaining and extending her dominion in Central America, in contempt alike of the Monroe doctrine and the Clayton-Bulwer Treaty." For his own part, the General said, he had perfect confidence in the good faith of England, and was thoroughly convinced that the Central American questions would all be ultimately settled in complete accordance with the understanding between our two Governments, but, certainly, things had so happened as to have an unfortunate effect upon the opinion of the American public. Mr. Wyke's Treaty had, he was informed, been already ratified by Her Majesty. It was certainly unlucky that the first Treaty ratified should be one securing and confirming British possessions, while the promised Treaties for ceding rights and territories

claimed by Great Britain had (so far as he knew) made little or no progress. He asked me whether it was certain that the Wyke Treaty had been ratified, and whether I was in a position to communicate a copy of it to him officially.

I answered, that the Treaty had certainly been ratified; that I was not authorized to furnish him with a copy officially, but that I could tell him in a few words the substance of it. I reminded him, that soon after my arrival here, I had informed him that Her Majesty's Government were endeavouring to settle with the Republic of Guatemala, upon the basis laid down in the Clarendon-Dallas Treaty, the boundary of the British Settlement of Belize. The Treaty signed by Mr. Wyke was, I proceeded to say, the result of that endeavour. It was in complete accordance with the basis laid down in the first section of the second Separate Article of the Clarendon-Dallas Treaty. It was in fact a Treaty to define the boundary between the Republic of Guatemala, and the British Settlement and Possessions in the Bay of Honduras, as they existed previous to and on January 1, 1850, and continued to exist since. The section of the Clarendon-Dallas Treaty, on which it was founded, had, if I recollected right, been passed without amendment by The United States' Senate, consequently I thought that the conclusion of a Treaty upon the basis laid down by it was satisfactory, as one step towards a termination of the Central American questions. It was of course merely accidental that this Treaty happened to be the first that had been ratified. Mr. Wyke had succeeded in concluding rapidly a satisfactory Treaty with Guatemala, while Sir William Ouseley had met with difficulties in arranging with Nicaragua the abandonment of the Mosquito Protectorate. Mr. Wyke's Treaty having been concluded and found unobjectionable, had, in the usual course, been ratified. The conduct of Her



sensitive public opinion in The United States was on the subject of Central America; and he seemed extremely desirous to impress upon me the very great importance of bringing all the questions to a conclusion before the meeting of Congress in December, in fact, of the President's being able to announce in his message, that the cession of the Bay Islands and the abandonment of the Mosquito Protectorate were things already done.

A copy of the Treaty signed by Mr. Wyke with Guatemala was forwarded for my information with your Lordship's despatch of the 1st ultimo, but I have not received any authority to communicate it to the Government of The United States. Your Lordship will judge whether it be desirable to furnish me with another copy, and to give me a discretionary power to place it in General Cass' hands.

Lord J. Russell. LYONS.

No. 225.—Lord J. Russell to Mr. Wyke.

(Extract.) *Foreign Office, August* 15, 1859.

I HAVE to acquaint you that the Queen has been graciously pleased to select you to proceed as Her Majesty's Envoy Extraordinary and Minister Plenipotentiary on a special Mission to Central America, for the purpose of relieving Sir William Gore Ouseley, and continuing or resuming the negotiations with which he has been charged. Sir William Gore Ouseley was at San José in Costa Rica at the date of the last despatches received from him. He will be instructed by the mail of the 16th instant to announce to the Costa Rican Government that his special Mission is at an end, and to return forthwith to Europe, taking leave of the Government of Nicaragua in writing without returning to that Republic. If, however, he should have returned to Nicaragua and my despatch should reach him there, he is ordered at once to take leave of the Government and come away, without revisiting Costa Rica. He is further instructed to make over to you all the archives of the special Mission including not only the originals of all despatches or official communications addressed to him, but also the drafts or copies of all which he has himself written.

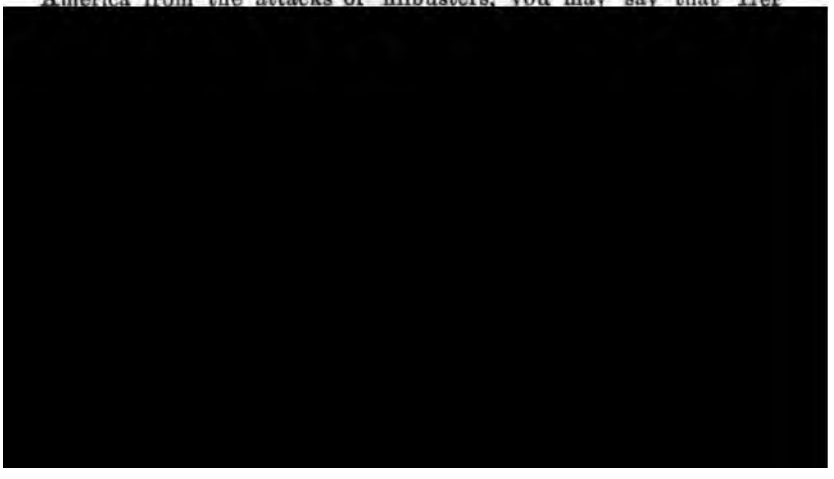
I transmit to you full power which the Queen has been graciously pleased to grant to you under the Great Seal, constituting you Her Majesty's Plenipotentiary for the negotiations with which you are charged; and also letters which Her Majesty has addressed to the Presidents of the Republics of Honduras, Nicaragua, Guatemala, and Costa Rica, accrediting you in the character of Her Envoy Extraordinary and Minister Plenipotentiary on a special Mission.

I propose to convey to you in separate despatches the instructions of Her Majesty's Government in regard to the negotiations

with the Republics of Honduras and Nicaragua which are intrusted to your hands.

You will proceed in the first instance to Guatemala. That Republic has, perhaps, the greatest weight of the five which compose the Central American group, and its influence may, if the Government be so disposed, very usefully and even powerfully aid you in accomplishing the main objects of your Mission which lie with the Republics of Honduras and Nicaragua. Your intimate knowledge of the Government of Guatemala will enable you to take the best means for obtaining the advantage of their advice and influence with the sister Republics. In delivering your letter of credence you will say that, although Her Majesty's Government have not at the present moment any special negotiation open with the Republic, they were unwilling to send you in a high diplomatic character to any other of the Republics of Central America without directing you to repair in the first place to Guatemala in a similar character. They consider this as a mark of attention due to the friendship and confidence recently shown by the Republic to Great Britain in the frank and prompt conclusion with you of the Treaty defining the boundary of British Honduras, a Treaty which Her Majesty's Government are convinced will promote the best interests of both parties.

You will say to the President of Guatemala, that Her Majesty's Government take a lively interest in the welfare of that Republic; that they have seen with satisfaction the success which has attended the efforts of its Government to pursue a steady course in the troubles by which Central America has for many years been distracted; and although you will be careful not to hold out any prospect of material assistance from this country to defend Central America from the attacks of filibusters, you may say that Her



you will next repair to the seat of Government of the Republic of Nicaragua, and will then complete, according to the instructions contained in a third despatch of this date, the negotiations which have to a certain point been carried on by Sir William Gore Ouseley.

These negotiations being completed, you may return to England.

C. L. Wyke, Esq. J. RUSSELL.

No. 226.—Lord J. Russell to Mr. Wyke.

(Extract.) *Foreign Office, August* 15, 1859.

THE questions which Her Majesty's Government are desirous that you should arrange with the Government of the Republic of Honduras are:—The transfer to the Republic of the sovereignty of the Bay Islands, and of so much of the Mosquito Territory as lies within the Honduras frontier, coupled with some reasonable arrangements in favour of the inhabitants of the Bay Islands and of the Mosquito Indians, and also with an arrangement for the investigation by means of a Mixed Commission of the claims of British subjects, arising out of land grants or other causes.

In August, 1856, two Conventions, for the arrangement of all these matters, were signed by the Earl of Clarendon and Señor Herran, the Honduras Minister at this Court. These Conventions, however, were not ratified by the Honduras Legislature; and, on full consideration, Her Majesty's Government are disposed to think that the details of the arrangements laid down in them would admit of much simplification, without injury to their substance. Under this view a fresh draft of Treaty has been prepared, combining in one so much of the provisions of both the Conventions of 1856, as it seems indispensable to retain. I transmit to you copies of the Conventions of 1856, and of the new draft. On comparing these documents, you will perceive that nothing is now left to which the Honduras Government can take any reasonable exception. In regard to the Bay Islands, those stipulations of the Convention of 1856 have been suppressed, which provided for the erection of those islands into a free territory, and for the government of such territory by its own municipal authorities. The transfer of the sovereignty of the islands to Honduras is, in fact, made immediate and complete with merely a provision that the inhabitants shall not be disturbed in the enjoyment of their property; that they shall retain freedom of conscience and of religious worship, and shall be at liberty to remove elsewhere with their property if they should think fit so to do.

In regard to the Mosquito Territory, the engagements contained in Article II of the Convention of 1856 are reduced in the new draft to a simple recognition of the title of Honduras to such part

of that territory as may be within her frontier, coupled with a provision that the Indians residing therein may either withdraw with their property or remain under the protection of the Republic as citizens thereof.

The arrangements of the Convention of 1856, respecting the investigation of British claims, arising out of land grants or otherwise, are retained; and to this Her Majesty's Government cannot anticipate any valid objection, seeing that it is essential to the preservation of those friendly relations which they desire to maintain with the Republic, that a decision should be come to respecting matters which are a cause of continual discussions between the two Governments. Her Majesty's Government propose that the place of meeting of the Mixed Commission, for the investigation of claims, shall be Belize instead of Truxillo, as fixed by the Convention of 1856. They have been informed that Truxillo would be extremely inconvenient to the claimants, and to the Honduras Government the change can be of little importance.

I have to instruct you to propose to the Honduras Government the Treaty of which I transmit to you the draft. You will bring to bear upon them every consideration which your knowledge of the subject, and of the people with whom you have to deal, may suggest to you, and you will impress upon the Government that every reasonable objection having been considered by Her Majesty's Government, with a view to satisfy Honduras, any hesitation on their part to accept the proposals now offered to them will infallibly deprive them of all shadow of claim to the friendship and good offices of Great Britain, under any circumstances whatever.

I conceive that a stay of two or three weeks in Honduras will be sufficient to carry out the objects of your Mission, if you are met in a proper spirit by the Government. If you succeed in getting the



purpose, and have named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, Esquire, Companion of the Most Honourable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, on a special Mission to the Republics of Central America;

And his Excellency the President of the Republic of Honduras,

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ART. I. Taking into consideration the peculiar geographical position of Honduras, and in order to secure the neutrality of the islands adjacent thereto, with reference to any railway or other line of interoceanic communications which may be constructed across the territory of Honduras on the mainland, Her Britannic Majesty agrees to recognize the Islands of Ruatan, Bonaca, Elena, Utile, Barbarete, and Morat, situated in the Bay of Honduras, as a part of the Republic of Honduras.

The inhabitants of the said islands shall not be disturbed in the enjoyment of any property of which they may be possessed therein, and shall retain perfect freedom of religious belief and worship, public and private. If any of them should wish to withdraw from the islands, they shall be at full liberty to do so, to dispose of their fixed or other property as they may think fit, and to take with them the proceeds thereof.

The Republic of Honduras engages not to cede the said islands, or any of them, or the right of sovereignty over such islands, or any of them, or any part of such sovereignty, to any nation or State whatsoever.

II. Her Britannic Majesty engages, subject to the conditions and engagements specified in the present Treaty, and without prejudice to any question of boundary between the Republics of Honduras and Nicaragua, to recognize as belonging to and under the sovereignty of the Republic of Honduras, the country hitherto occupied or claimed by the Mosquito Indians within the frontier of that Republic, whatever that frontier may be.

The British Protectorate of that part of the Mosquito Territory shall cease 3 months after the exchange of the ratifications of the present Treaty.

III. The Mosquito Indians in the district recognized by Article II of this Treaty as belonging to and under the sovereignty of the Republic of Honduras shall be at liberty to remove, with their property, from the territory of the Republic, and to proceed whithersoever they may desire; and such of the Mosquito Indians who

remain within the said district shall not be disturbed in the possession of any lands or other property which they may hold or occupy, and shall enjoy, as citizens of the Republic of Honduras, all rights and privileges enjoyed generally by the citizens of the Republic.

IV. Whereas British subjects have by grant, lease, or otherwise, heretofore obtained from the Mosquito Indians, interests in various lands situated within the district mentioned in the preceding Article, the Republic of Honduras engages to respect and maintain such interests; and it is further agreed that Her Britannic Majesty and the Republic shall, within 12 months after the exchange of the ratifications of the present Treaty, appoint two Commissioners, one to be named by each party, in order to investigate the claims of British subjects arising out of such grants or leases, or otherwise; and all British subjects whose claims shall by the Commissioners be pronounced well founded and valid, shall be quieted in the possession of their respective interests in the said lands.

V. It is further agreed between the Contracting Parties, that the Commissioners mentioned in the preceding Article shall also examine and decide upon any British claims upon the Government of Honduras that may be submitted to them, other than those specified in that Article, and not already in a train of settlement; and the Republic of Honduras agrees to carry into effect any agreements for the satisfaction of British claims already made, but not yet carried into effect.

VI. The Commissioners mentioned in the preceding Articles shall meet at Belize, at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they



make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the Commissioners, which declaration shall also be entered on the record of the proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting or declining or ceasing to act as such arbitrator or umpire, another person or other persons shall be named as aforesaid to act as arbitrator or umpire in his or their place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Honduras hereby engage to consider the decision of the Commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and conclusive on the matters to be referred to their decision; and they further engage forthwith to give full effect to the same.

VII. The Commissioners and the arbitrator or umpire shall keep an accurate record, and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ a clerk or other persons to assist them in the transaction of the business which may come before them.

The salaries of the Commissioners shall be paid by their respective Governments. The contingent expenses of the Commission, including the salary of the arbitrator or umpire, and of the clerk or clerks, shall be defrayed in equal halves by the two Governments.

VIII. The present Treaty shall be ratified, and the ratifications shall be exchanged at as soon as possible within months from this date.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at the day of in the year of our Lord 18 .

No. 227.—Lord J. Russell to Mr Wyke.

(Extract.) *Foreign Office, August* 15, 1859.

In order to convey to you the instructions of Her Majesty's Government, for your guidance in the negotiation which you are to undertake with the Government of Nicaragua, it is necessary that I should explain what has already been done, with a view to the settlement of the question in discussion with that Republic.

When Sir William Gore Ouseley proceeded from The United States to Central America, at the end of October last, he was furnished with drafts of 3 Treaties to propose to the Government of Nicaragua:

1. A Treaty of Friendship, Commerce, and Navigation, containing certain Articles relative to the interoceanic transit. This

draft was founded upon the Treaty concluded on the 16th of November, 1857, between The United States and Nicaragua, and commonly called the Cass-Yrissari Treaty. The commercial Articles of the latter were slightly modified, so as to adapt them to our system; the Articles relative to the transit were adopted from the American Treaty with very little change, and that purely immaterial.

2. A Treaty relative to the Mosquito Territory and the claims of British subjects. The arrangements of this draft were taken from the Clarendon-Dallas Treaty of October 17, 1856.

3. A Convention or Agreement respecting Post-office arrangements.

The last-mentioned Convention has been concluded and put in operation; so that it may be dismissed from consideration.

Of the other two drafts, I transmit to you copies, as well as copies of the Clarendon-Dallas Treaty (which you are aware was never ratified) and of the Articles of the Cass-Yrissari Treaty, which relate to the interoceanic transit.

After the arrival of Sir William Gore Ouseley in Nicaragua, he communicated to the Nicaraguan Government, first the draft of the Treaty of Commerce and Navigation, and shortly afterwards the draft of the Treaty respecting the Mosquito Territory. He proceeded in the first place with the negotiation of the former Treaty, and signed it on the 18th of January last, having, however, admitted into it various alterations of the draft given to him. Some of those alterations were of no great importance, but others, which occurred in the Articles respecting the interoceanic transit, were of a very embarrassing nature.

In order to show you clearly what they were, I transmit a printed copy of the draft with the alterations marked in manuscript and

[redacted]

The most important and embarrassing alteration of the draft which Sir William Gore Ouseley admitted, was the introduction into Article XXII of a clause by which Great Britain engaged to discourage and prevent the organization of filibustering expeditions in her territories against those of Nicaragua. It is obvious that this engagement had no real meaning so far as Great Britain and Nicaragua are concerned, except as a simple concession. But the Nicaraguan Government having prevailed upon the British negotiator to consent to its insertion in the British Treaty, made that insertion a ground for endeavouring to insert it likewise in the Cass-Yrissari Treaty. That Treaty after great delay, and much communication between the Governments of Nicaragua and of The United States, seemed on the point of being ratified with some slight modifications. The attempt by Nicaragua to introduce at the last moment a new clause which the American Government considered an insult, especially when proposed under the shelter, as it were, of a similar clause introduced without any practical meaning into a Treaty between Great Britain and Nicaragua, justly excited the displeasure of the American Government, and has led to the withdrawal of their Minister, and the threat of a resort to force if the Cass-Yrissari Treaty be not immediately ratified without the obnoxious clause. The insertion of the clause in the British Treaty might, moreover, have created an unfriendly feeling on the part of the American Government towards Great Britain, had not Her Majesty's Government set themselves right by at once informing the American Government that the clause was added to the Treaty without their authority, and was disapproved.

I now turn to the negotiation in regard to the draft of Treaty respecting the Mosquito Territory. I have already stated that Sir William Gore Ouseley presented the draft of that Treaty to the Nicaraguan Minister soon after the draft of the Treaty of Commerce. The latter was negotiated and signed in the first place. The Nicaraguan Minister having obtained by the Treaty of Commerce a guarantee of the neutrality of the interoceanic communication, and an engagement obliquely directed against American filibusters showed no great anxiety to proceed with the second Treaty. Sir William Gore Ouseley, indeed, pressed it upon his attention, but finding that his business made no progress, he resolved upon visiting Costa Rica with the view of completing his negotiation there, and of afterwards returning to Nicaragua to conclude the Mosquito Treaty. After his arrival at San José he received an official communication from Señor Zeledon, stating that the Nicaraguan Government had consulted the Senate of the Republic in regard to the draft of Treaty, and detailing certain modifications of the draft which the Senate considered necessary; adding, that if Sir William Gore Ouseley were

able to accept them, a Plenipotentiary would be appointed to confer with him. Under these circumstances, Sir William Gore Ouseley could do no more than transmit Señor Zeledon's communication to Her Majesty's Government for their consideration. On examining Señor Zeledon's note, it was found somewhat difficult to form an opinion with regard to it. He had merely described under a series of heads the nature of the modifications which his Government desired, but without offering a complete counter-draft of the Treaty. Consequently it was not clear whether the Nicaraguan Government proposed to suppress or to retain such passages of the draft as were not specifically superseded by the particular modifications mentioned in his letter. Sir William Ouseley was therefore informed that so far as Her Majesty's Government understood the scope of Señor Zeledon's modifications, they did not offer any insuperable obstacle to further negotiation, with, however, the exception of two stipulations: one which appeared to supersede the arrangement proposed by our draft for the payment of a pecuniary compensation to the Mosquito King for the abandonment of his interest in the territory which is to be placed under the sovereignty of Nicaragua; the other, which would have bound Great Britain indefinitely to continue her protection to the Mosquito Coast until the conclusion of a joint arrangement between Great Britain, The United States, and Nicaragua, on the principle of the Clayton-Bulwer Treaty. Lord Malmesbury informed Sir William Gore Ouseley, with reference to this last proposition, that the utmost Her Majesty's Government could assent to would be to continue the British protection for the period of a year after the signature of the Treaty, so as to give Nicaragua time to prepare for its defence; and he was authorized to insert an Article to that effect in the Treaty

In this state the negotiation relative to the Mosquito question



It is possible that before you reach Nicaragua, Sir William Gore Ouseley may have returned thither, and may have concluded one or both of the Treaties. If he should have signed the new Treaty of Commerce and Navigation in the terms of the amended draft sent to him in the Earl of Malmesbury's despatch of the 23rd of March last, you will not have occasion to enter upon that part of the question; but if, as is most likely, that Treaty remains unsigned when you arrive, you will state to the Nicaraguan Government that you are authorized to sign it in the terms of the amended draft which has been communicated to them by Sir William Gore Ouseley, provided the Treaty about the Mosquito Territory be signed at the same time.

It is not at all probable, judging from the tenor of Sir William Ouseley's late despatches, that he will have concluded the Mosquito Treaty. If, however, he should have done so, and the Treaty shall have been confirmed by the Nicaraguan Congress, it will be best not to disturb the arrangement; but if the Treaty has either not been signed, or has been signed and not ratified by the Congress, you will propose the draft with which you are furnished, and which will doubtless be more acceptable to the Nicaraguan Government than the Treaty which Sir William Ouseley would feel authorized to propose to sign. Even if he should have signed a Treaty, the new one can be substituted for it.

You will speedily form an opinion as to the success of your Mission, and Her Majesty's Government would not wish it to be much prolonged. You will state to the Nicaraguan Government that Her Majesty's Government make this last effort to arrange the Central American question, so far as Nicaragua is concerned: that they expect a prompt and frank acceptance of the very favourable terms which they now offer; and that if any hesitation or delay takes place, Her Majesty's Mission will be at once withdrawn, and Great Britain will leave the Republic to take the consequences of their infatuation. I trust, however, that the Nicaraguan Government will have sufficient discretion to see the dangerous position in which it would then be placed, and the necessity of at once arranging the questions which have been so long pending with this country.

I have only to add that Her Majesty's Government expect not only that the Treaties should be properly signed, but that they should be as promptly ratified. If the Nicaraguan Congress be not in session at the time, it is not too much to require that in a matter of so much importance a special session should be convoked for the purpose of passing the Treaties, so that they may be ratified before your departure. The ratifications might, indeed, be confided to you with instructions to M. Marcoleta to exchange them at London against those of Her Majesty. You will, however, warn the

Government that it will be vain for them to ratify the Treaty of Commerce without ratifying also the Mosquito Treaty, for Her Majesty's Government will not accept the one without the other.

C. L. Wyke, Esq. J. RUSSELL.

(*Inclosure* 1.)—*Draft Treaty between Her Britannic Majesty and the Republic of Nicaragua, relative to the Mosquito Indians, and to the Rights and Claims of British Subjects.*

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to settle in a friendly manner certain questions in which they are mutually interested, have resolved to conclude a Treaty for that purpose, and have named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, Esquire, Companion of the Most Honourable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary on a Special Mission to the Republics of Central America;

And his Excellency the President of the Republic of Nicaragua,

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ART. I. Her Britannic Majesty engages, subject to the conditions and engagements specified in the present Treaty, and without prejudice to any question of boundary between the Republics of Nicaragua and Honduras, to recognize as belonging to and under the Sovereignty of the Republic of Nicaragua, the country hitherto occupied or claimed by the Mosquito Indians within the frontier of that Republic, whatever that frontier may be.

[redacted]

Greenwich; and thence southerly along the shore of the Caribbean Sea to the mouth of the River Rama, the point of commencement.

But the district thus assigned to the Mosquito Indians may not be ceded by them to any other State, but shall be and remain under the sovereignty of the Republic of Nicaragua.

III. The Mosquito Indians, within the district designated in the preceding Article, shall enjoy the right of governing, according to their own customs, and according to any regulations which may from time to time be adopted by them, not inconsistent with the sovereign rights of the Republic of Nicaragua, themselves, and all persons residing within such district. Subject to the above-mentioned reserve, the Republic of Nicaragua agrees to respect and not to interfere with such customs and regulations so established, or to be established, within the said district.

IV. It is understood, however, that nothing in this Treaty shall be construed to prevent the Mosquito Indians, at any future time, from agreeing to absolute incorporation into the Republic of Nicaragua on the same footing as other citizens of the Republic, and from subjecting themselves to be governed by the general laws and regulations of the Republic, instead of by their own customs and regulations.

V. The Republic of Nicaragua being desirous of promoting the social improvement of the Mosquito Indians, and of providing for the maintenance of the authorities to be constituted under the provisions of Article III of this Treaty, in the district assigned to the said Indians, agrees to grant to the said authorities, for the space of 10 years, with a view to such purposes, an annual sum of dollars, to be paid out of the duties levied upon goods imported for consumption within the Republic. The said sum shall be paid at Greytown, by half-yearly payments, to such person as may be authorized by the Chief of the Mosquito Indians to receive the same, and the first payment shall be made months after the exchange of the ratifications of the present Treaty.

VI. Her Britannic Majesty engages to use her good offices with the Chief of the Mosquito Indians, in order to induce him to accept the arrangements in his behalf, which are contained in the preceding Articles.

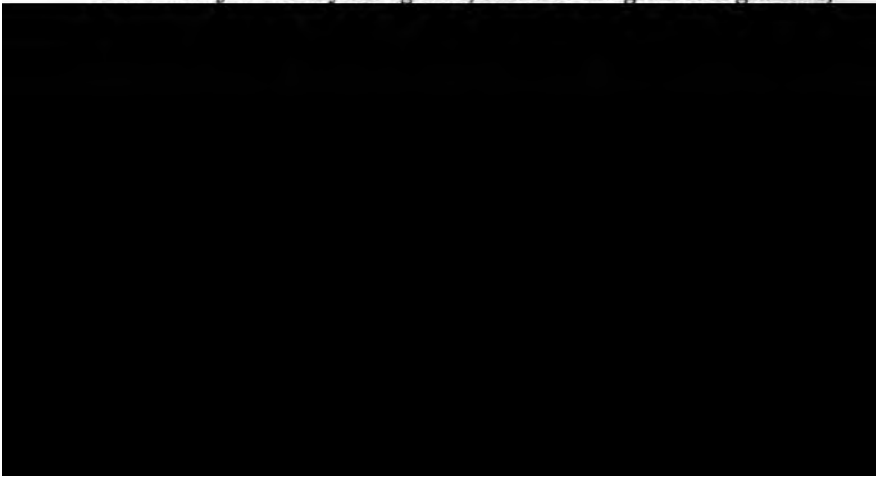
VII. The Republic of Nicaragua shall constitute and declare the port of Greytown, or San Juan, a free port under the sovereign authority of the Republic. But the Republic, taking into consideration the immunities heretofore enjoyed by the inhabitants of Greytown, consents that in all causes, civil or criminal, arising, or to be tried within the limits of the said free port, the parties to such causes shall have the benefit of trial by jury; and, further, that all persons

residing within the said free port shall enjoy perfect freedom of religious belief, and of worship, public and private.

No duties or charges shall be imposed upon vessels arriving in, or departing from, the free port of Greytown, other than such as may be sufficient for the due maintenance and safety of the navigation, for providing lights and beacons, and for defraying the expense of the police of the port; neither shall any duties or charges be levied in the free port on goods arriving therein, whether in transit, or destined for consumption within the said port. But nothing contained in this Article shall be construed to prevent the Republic of Nicaragua from levying the usual duties on goods destined for consumption in the Republic beyond the limits of the free port.

VIII. All *bonâ fide* grants of land for due consideration made in the name and by the authority of the Mosquito Indians, since the 1st of January, 1848, and lying beyond the limits of the territory reserved for the said Indians, shall be confirmed, provided the same shall not exceed in any case the extent of 100 yards square, if within the limits of San Juan or Greytown, or one league square if without the same, and provided that such grant shall not interfere with other legal grants made previously to that date by Spain, the Republic of Central America, or either of the present States of Central America; and provided further, that no such grant within either of the said States shall include territory desired by its Government for forts, arsenals, or other public buildings. This stipulation is in no manner to affect the grants of land made previously to the 1st of January, 1848.

In case, however, any of the grants referred to in the preceding paragraph of this Article should be found to exceed the stipulated extent, the Commissioners hereinafter mentioned shall, if satisfied of the *bona fides* of any such grants, award to the grantee or grantees,



tively named, meet at such place or places as shall be hereafter fixed; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, all the matters referred to them for their decision; and such declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some third person to act as arbitrator or umpire in any case or cases in which they may themselves differ in opinion. If they should not be able to agree upon the selection of such a person, the Commissioner on either side shall name a person; and in each and every case in which the Commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be arbitrator or umpire in that particular case. The person or persons so to be chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the Commissioners, which declaration shall also be entered on the record of the proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing, to act as such arbitrator or umpire, another person or other persons shall be named as aforesaid to act in his or their place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Nicaragua shall engage to consider the decision of the two Commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and conclusive on the matters to be referred to their decision, and forthwith to give full effect to the same.

XI. The Commissioners and the arbitrators or umpires shall keep accurate records and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ such clerk or clerks, or other persons, as they shall find necessary to assist them in the transaction of the business which may come before them.

The salaries of the Commissioners shall be paid by their respective Governments. The contingent expenses of the Commissioners, including the salary of the arbitrators or umpires, and of the clerk or clerks, shall be defrayed in equal moieties by the two Governments.

XII. The present Treaty shall be ratified by Her Britannic Majesty, and by the President of the Republic of Nicaragua, and the ratifications shall be exchanged at as soon as possible within the space of

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at

(*Inclosure* 2.)—*Articles of the Treaty between The United States and Nicaragua of November* 16, 1857 (*called the Cass-Yrissari Treaty*), *which relate to the Transit Route.*

XIV. THE Republic of Nicaragua hereby grants to The United States, and to their citizens and property, the right of transit between the Atlantic and Pacific Oceans, through the territories of that Republic, on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both Republics and their respective citizens; the Republic of Nicaragua, however, reserving its right of sovereignty over the same.

XV. The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality of the same. They also agree to employ their influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua, on its part, undertakes to establish two free ports, one at each of the extremities of the communication aforesaid, on the Atlantic and Pacific Oceans. At these ports no tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of The United States, or on any effects or merchandize belonging to citizens or subjects of The United States, or of any other country, intended *bonâ fide* for transit across the said route of communication, and not for consump-



other routes across the Isthmus in its direction, in closed bags, the contents of which may not be intended for distribution within the said Republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

XVI. The Republic of Nicaragua agrees that should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon failure to do this for any cause whatever, the Government of The United States may, after notice to the Government of Nicaragua, or to the Minister thereof, in The United States, employ such force for this and for no other purpose; and when the necessity ceases, such force shall be immediately withdrawn.

XVII. It is understood, however, that The United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if The United States should deem that the persons or company undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this Treaty, either by making unfair discriminations in favour of the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandize, or other articles. The aforesaid protection and guarantee shall not, however, be withdrawn by The United States without first giving six months' notice to the Republic of Nicaragua.

XVIII. And it is further understood and agreed that, in any grant or contract which may hereafter be made or entered into by the Government of Nicaragua, having reference to the interoceanic routes above referred to, or either of them, the rights and privileges granted by this Convention to the Government and citizens of The United States shall be fully protected and reserved; and if any such grant or contract now exist of a valid character, it is further understood that the guarantee and protection of the United States stipulated in Article XV of this Treaty, shall be held inoperative and void, until the holders of such grant or contract shall recognize the concessions made in this Treaty to the Government and citizens of The United States with respect to such interoceanic routes, or either of them, and shall agree to observe, and be governed by, those concessions as fully as if they had been embraced in their original grant or contract; after which recognition and agreement, said guarantee and protection shall be in full force; provided that nothing

herein contained shall be construed either to affirm or deny the validity of any of the said contracts.

XIX. After ten years from the completion of a railroad, or any other route of communication, through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than 15 per cent. per annum, or at that rate, to its stockholders, from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of 15 per cent. per annum.

XX. It is understood that nothing contained in this Treaty shall be construed to affect the claim of the Government and citizens of the Republic of Costa Rica to a free passage, by the San Juan river, for their persons and property, to and from the ocean.

No. 228.—*Lord J. Russell to Mr. Wyke.*

SIR *Foreign Office, August* 15, 1859.

YOU are authorized to call upon the Commanders of Her Majesty's vessels of war to protect the coasts of the Republics of Central America during the continuance of your Mission. But in the event of the landing of a body of filibusters, you will not desire or authorize the landing of any of Her Majesty's marines or seamen. You will call upon the Republics of Central America to rely upon their own forces for operations by land.

You will notify the conclusion or breaking off of negotiations to the senior officer on the coast. I am, &c.

C. L. Wyke, Esq. J. RUSSELL.



your appointment to be his successor in Her Majesty's special Mission to the Republics of Central America. I am, &c.

C. L. Wyke, Esq. J. RUSSELL.

No. 231.—*Lord J. Russell to Sir W. G. Ouseley.*

SIR, *Foreign Office, August* 15, 1859.

HER Majesty's Government have been much disappointed at the delays which have taken place in your negotiations with the Republic of Nicaragua respecting the Mosquito question. While it is of great importance that the negotiations with which you are charged should be brought to a conclusion without delay, no real progress has been made in any part of them. It is true that you concluded in January last a Treaty of Friendship, Commerce, and Navigation with the Republic of Nicaragua; but in consequence of the important and unauthorized alterations of the draft proposed by Her Majesty's Government which you admitted into the Treaty, Her Majesty's Government would have been unable to advise the Queen to ratify that Treaty even if it had been accompanied by the Treaty respecting the Mosquito territory. To this last-mentioned Treaty, which is a matter of more pressing importance than the other, you make no allusion whatever in your despatches received by the last mail: but so far as I can judge from those received previously, and from your continued stay in Costa Rica, there seems but little prospect of your effecting a speedy arrangement, if any arrangement at all, of the Mosquito question.

The whole negotiation, therefore, remains essentially in the same state as when you arrived in Central America.

This state of things is too unsatisfactory to be allowed to continue, and Her Majesty's Government think it right, without loss of time, to place the negotiations in other hands.

The Queen has, therefore, been advised to appoint Mr. Wyke to proceed to Central America, and to enter into negotiation with the Republic of Honduras and with the Republic of Nicaragua, for the settlement with the former of the question of the Bay Islands, and with the latter of the Mosquito question.

You will accordingly, on the receipt of this despatch, announce to the Government of Costa Rica that your special Mission is at an end, and you will return forthwith to England without again visiting Nicaragua; but you will address a letter to the Minister for Foreign Affairs of the latter Republic, informing him of your return, but stating that Her Majesty, being still desirous of coming to an arrangement with Nicaragua in regard to the Mosquito question, has been pleased to appoint Mr. Wyke to make a last effort for that purpose.

If, however, you should have returned to Nicaragua when this despatch reaches you, you will then immediately announce to the Nicaraguan Government the termination of your special Mission, and will take your departure for England without returning to Costa Rica, but informing the Costa Rican Government by letter of the close of your Mission, and the appointment of Mr. Wyke.

You will make over to Mr. Wyke the whole of the archives of your special Mission, including not only all the despatches and official communications which have been addressed to you, but also the drafts or copies of the whole of those which you have yourself written; and in case you should not yourself see Mr. Wyke, you will send them to him by some trustworthy messenger; or, if you have no such person at your disposal, by Mr. Synge, who may then proceed on the leave of absence granted to him by the Earl of Malmesbury.

I am, &c.

Sir W. G. Ouseley. J. RUSSELL.

No. 232.—*Lord J. Russell to the Lords Commissioners of the Admiralty.*

My Lords, *Foreign Office, August* 16, 1859.

I have to acquaint your Lordships that the Queen has been pleased to appoint Charles Lennox Wyke, Esq., to succeed Sir William Gore Ouseley as Her Majesty's Envoy Extraordinary and Minister Plenipotentiary on a special Mission to the Republics of Central America.

Mr. Wyke will take his departure by the mail steam-packet of the 17th instant. He will in the first place proceed, by way of Panamá, to the Republic of Guatemala, from thence to the capital of the Republic of Honduras, and afterwards to the seat of Government of the Republic of Nicaragua.

Instructions will be sent to Sir William Gore Ouseley by the



as he may point out, and that the Commander-in-chief of Her Majesty's naval forces in the Pacific should be directed to place that or any other similar vessel, at Mr. Wyke's disposal during his employment in Central America, where it is hoped he will not be detained above 3 months.

If Mr. Wyke should find no steamer of Her Majesty's at Panamá, he will proceed, as he best can, to the port of San José, in Guatemala, and the Admiral should send a steam-vessel to him there, with contingent instructions, if Mr. Wyke should have left before its arrival, to proceed to such port as Mr. Wyke on his departure may have left word that he is proceeding to.

I am, &c.

The Lords Commissioners of the Admiralty. J. RUSSELL.

No. 233.—Lord J. Russell to Lord Lyons.

MY LORD, *Foreign Office, August* 16, 1859.

I HAVE received your despatch of the 2nd instant, with its inclosures, respecting the Treaty recently concluded by Mr. Wyke with the Republic of Guatemala, for defining the boundary of British Honduras.

I now transmit to you a second copy of the Treaty in question, in order that you may communicate it to General Cass.

I am, &c.

Lord Lyons. J. RUSSELL.

No. 234.—Sir W. G. Ouseley to the Earl of Malmesbury.
(Received August 16.)

(Extract.) *San José, Costa Rica, June* 28, 1859.

WITH reference to your Lordship's despatch of the 9th of May, I beg respectfully to remind your Lordship, that in my despatch of the 31st of March, to which your Lordship's relates, I did not refer to interruptions caused by filibuster movements to my negotiations. They were not discontinued from the time of my arrival. But that the Nicaraguan Government was very much embarrassed, and their action impeded by their panic and preparations for repelling the repeated movements of Walker and his followers for attacking Nicaragua, there is not the slightest doubt.

That no fresh invasions of the territory of Nicaragua by filibusters have actually taken place is owing mainly to the attitude of Her Majesty's Government (and that of France), and the public declaration of their determination to prevent or oppose such acts of piracy.

I beg leave, however, to remind your Lordship of the covert attempt at invasion while I was in the harbour of Greytown, by some 200 or 300 so-called emigrants. There is now no doubt of

the character of the major part of the passengers by that vessel, many of whom have, since their attempted entrance into Nicaragua, from on board the *Washington*, been recognized as notorious filibusters, who had formed part of Walker's force on previous occasions.

Subsequently a combined attempt on a larger scale was made. Several vessels were to rendezvous on the north-eastern coast of Mosquitia, the force on board one of which, the *Susan*, was to obtain possession of the fortress of Omoa, in Honduras, as their head-quarters and base of operations against Nicaragua, while other detachments were to ascend the Segovia, or find other routes to reach Matagalpa, and thence easily attain the principal cities of Nicaragua.

This plan was frustrated by the wreck of the *Susan*, and the probable total failure of the attempts to pass through Mosquitia, anticipated by those who best know the nature of the country and the difficulties which want of roads, insalubrity of climate, as also the hostility of the Mosquito Indians,* whose resistance would have been a serious obstacle to the advance of the invading forces into Nicaragua, are circumstances which, although they might prevent the success of the filibusters, have not hitherto deterred them from attempting to carry their designs into execution; nor will such accidental failures be likely to discourage further attempts; for, however lawless and disreputable Walker's followers may be, their adventurous energy and daring perseverance cannot be denied.

Further attempts to land a filibuster force under the name of emigrants, and even in one instance to obtain the protection of The United States' squadron in disembarking them, have lately been reported.

The Earl of Malmesbury. W. G. OUSELEY.

[redacted]

expeditions are fitting out simultaneously in the north and south of The United States, with the object of invading Nicaragua or Costa Rica, or the two Republics at once, on the Atlantic and Pacific sides at the same time.

The powerful nation which your Excellency worthily represents, England, has been the first to proclaim death and extermination to the principles of Vandalism, and the most severe in punishing those who, with unjust and illegal designs of aggrandizement, piratically invade foreign territories and peaceful nations.

The same England, convinced of the cruel persecution which Nicaragua and Costa Rica have undergone from expeditions armed and equipped in The United States, acquainted, perhaps, with all the many and irreparable losses which such expeditions have caused,—those countries still suffering the consequences of a wicked and unjust war; and knowing the mode in which such expeditions are fitted out in The United States, the facility with which they are organized, and the constant design of the pirates to return to Central America; Great Britain was also the first to declare herself opposed to such proceedings directed against industrious and peaceful nations of small strength; and with scarcely resources to defend their remote and long extent of coast.

The Government of Her Majesty the Queen of England proclaimed its humane determination, and declared that it would not be indifferent to new piratical attacks, announcing at the same time that it had given the requisite orders with a view to prevent them, and to chastise those engaged in them.

With these antecedents, the Government has decided to call your Excellency's attention, with all the confidence which they inspire, to the expeditions which are now preparing, and which in all probability will come by the Pacific and the Atlantic, and it hopes that in accordance with the powers which you possess for that purpose, your Excellency will give such orders as you may deem most efficacious to prevent and to frustrate such designs in time.

The Undersigned, &c.

Sir W. G. Ouseley. NAZARIO TOLEDO.

No. 236.—Sir W. G. Ouseley to the Earl of Malmesbury.
(Received August 16.)

MY LORD, *San José, July 1, 1859.*

IN your Lordship's despatch of the 16th of April, I am directed to "return home as soon as I shall have signed the Treaties which I am instructed to negotiate with the Republic of Nicaragua, relative to the Mosquito territory, as well as the (amended) Treaty of Friendship, Commerce, and Navigation with the same Republic."

In your Lordship's subsequent despatch of the 9th of May, I am

instructed to bring the Treaty respecting Mosquito to an immediate conclusion, together with the General Treaty; and to bring them both home without delay, when signed and ratified by the Nicaraguan Government.

I had arrived at this place, and entered on the negotiation of the Treaty of Friendship, Commerce, &c., with this Republic, after the signature and ratification of that with Nicaragua, and before the receipt of your Lordship's despatches, rejecting certain modifications in that Convention.

Since then, on learning the refusal of the Senate of Nicaragua to accept the proposed Mosquito Treaty, I have commenced its negotiation, or rather proposed its acceptance by Costa Rica, irrespective of Nicaragua, as a means of expediting the movements of the latter, and to save time, by carrying on both negotiations simultaneously.

I have, &c.

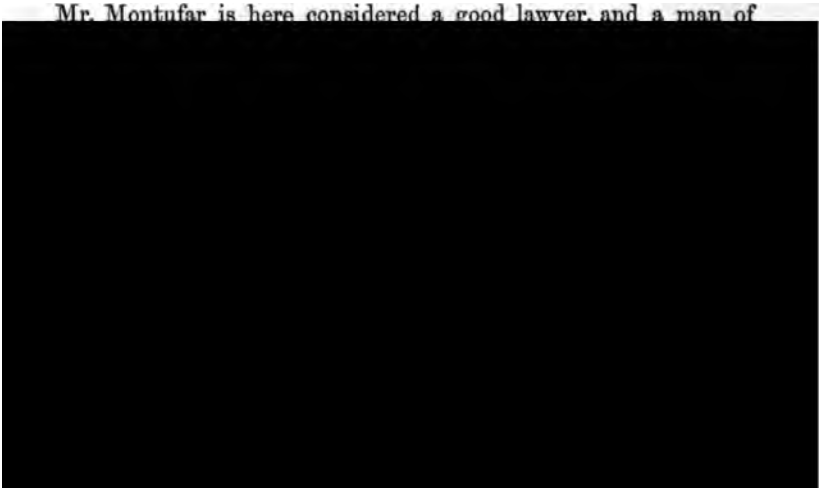
The Earl of Malmesbury. W. G. OUSELEY.

No. 237.—Sir W. G. Ouseley to the Earl of Malmesbury.
(*Received August* 16.)

My Lord, *San José, July* 2, 1859.

The dangerous illness of Señor Toledo has for some time prevented his attendance at the Department of Foreign Relations, and when the President was absent or engaged, I had to transact business with Señor Gonzales, the Under Secretary of the Department. It was notified to me some time ago that a Plenipotentiary would be appointed to carry on negotiations in place of Señor Toledo. The letter, copy and translation of which I have now the honour to forward, announces that the President has named Don Lorenzo Montufar to treat with me on the object of my Mission.

Mr. Montufar is here considered a good lawyer, and a man of



No. 238.—*Lord J. Russell to Sir W. G. Ouseley.*

SIR, *Foreign Office, August* 18, 1859.

I RECEIVED, late in the evening of the 16th instant, your despatches up to the 11th July, and I have regretted to find that the negotiations with which you have been charged continued up to that date in the same unsatisfactory state in which they have long been.

As Mr. Wyke has been sent out to relieve you from the further conduct of those negotiations, I have no instructions to give you on that subject. I have therefore only now to repeat the instructions which I gave to you in my despatch of the 15th instant, and to desire you at once to cease from all further negotiation either with the Government of Nicaragua or with that of Costa Rica, and to return to England forthwith from the place where you receive this despatch, without again visiting Nicaragua if this despatch finds you in Costa Rica, or Costa Rica if it finds you at Nicaragua, making over or sending to Mr. Wyke by a trustworthy messenger, or by Mr. Synge if none such can be found, the whole of the archives of your special Mission, including the despatches that you have written to or received from the Secretary of State, and your correspondence with any of the authorities in Central America.

I am, &c.

Sir W. G. Ouseley. J. RUSSELL.

No. 239.—*Lord J. Russell to Mr. Wyke.*

SIR, *Foreign Office, August* 18, 1859.

I TRANSMIT, for your information, a copy of an instruction which I have addressed to Sir William Ouseley, since the receipt of his despatches by the last West India mail, confirming the instructions contained in my despatch to him of the 15th instant, of which you have been furnished with a copy.

I have, &c.

C. L. Wyke, Esq. J. RUSSELL.

No. 240.—*Lord J. Russell to Lord Lyons.*

MY LORD, *Foreign Office, August* 18, 1859.

HER Majesty's Government are so dissatisfied with the little progress made by Sir William Gore Ouseley in the negotiation with which he was charged in Central America, that they have resolved to send out another Minister to relieve him. For this service they have selected Mr. Wyke, who has taken his departure by the mail steamer of the 17th instant. He will first proceed to Honduras to arrange the questions of the Bay Islands and of the Mosquito territory, so far as the Republic of Honduras is concerned

in that territory; and next to Nicaragua, in order to arrange the question of the Mosquito territory and of Greytown in regard to that Republic. He will likewise endeavour to conclude afresh, with the omission of the objectionable clauses admitted by Sir William Gore Ouseley without authority, the Treaty with Nicaragua containing the Articles relative to interoceanic transit.

The arrangements which Her Majesty's Government have empowered Mr. Wyke to offer to the two Republics are so simplified, and so completely divested of every condition to which they could take any reasonable objection, that Her Majesty's Government can hardly conceive that the Honduras and Nicaraguan Governments will be so infatuated as to refuse them, or even to make any difficulty in at once accepting them. But Her Majesty's Government being as desirous as the Cabinet of Washington can be, to bring these wearisome questions to a prompt conclusion have instructed Mr. Wyke to press his negotiations in such a manner as to admit of no delay, so that, at all events, they may at once be brought to a decisive issue. Should they unfortunately fail, it will be made quite clear to the world that it is through no fault of Her Majesty's Government.

You will acquaint General Cass with the substance of this despatch.

I am, &c.

Lord Lyons. J. RUSSELL.

No. 241.—*Lord Lyons to Lord J. Russell.*—(*Received August* 27.)

My Lord, *Washington, August* 16, 1859.

On the evening of the 11th instant I paid a visit to President Buchanan, at his country residence, in the neighbourhood of this town.

In the course of conversation, the President introduced the



Britain which he should have to make to Congress. He had looked forward with pride to being able to announce that, for the first time for so many years, there was no question in dispute between the two countries, and that the relations between them were thoroughly cordial and satisfactory. There was one question, and one only, which could interfere with his making this joyful announcement. He confessed that he was apprehensive that the negotiations in Central America were not making satisfactory progress. He had not the least doubt that Her Majesty's Government would perform with perfect good faith their promises to The United States; but time pressed. If, when Congress met, things should be in their present condition, if at that time England should still appear to have settled those parts of the Central American negotiation which carried out her own views, while she had left unsettled those which were to have been arranged in conformity with the opinions of The United States, there would be an outburst of feeling, both in Congress and in the country, with which it might be impossible to contend. It would indeed be lamentable if two countries whose interests were more deeply involved in a mutual good understanding than those of any other two nations in the world, should be kept asunder by questions which might be settled so easily. The time might not be far distant when the two countries might have to look to each other for support in the defence of liberal political institutions. How important would it then be that they should be without subjects of quarrel between themselves, and be united by real and hearty good feeling.

The President proceeded to observe, that the present state of the Central American negotiations was peculiarly embarrassing. England had, he said, already secured to herself the territory from the River Sarstoon to Mexico, her claim to which had always been disputed by The United States. Why could not the same activity be displayed in conducting the other parts of the negotiation? Mr. Wyke appeared to have shown skill and energy in obtaining from Guatemala the Treaty defining the territory referred to. Why should he not be directed to settle with Honduras the cession of the Bay islands? There remained the abandonment of the Mosquito Protectorate. What was Sir William Ouseley doing about that? He certainly did not seem to be making any progress. Congress would assemble in December; surely when so much, so very much, depended upon it, every effort would be made to settle all the questions before that date. He earnestly trusted that your Lordship would give immediate attention to this most important matter, and act upon it energetically and at once.

It is unnecessary to trouble your Lordship with a detailed report of my own part of the conversation. I indeed said but little.

The President spoke emphatically and continuously, and I avoided interrupting him. I reminded him that it was merely owing to an accidental circumstance that Mr. Wyke was not at that very moment engaged in negotiation with Honduras respecting the cession of the Bay Islands, and I told him that I had recently received a letter from Sir William Ouseley holding out some hope of a solution of the difficulties respecting the Mosquito Protectorate. I, of course, responded cordially to the sentiments expressed by the President with regard to the common interests of Great Britain and The United States, and to the importance of clearing away every obstacle to mutual confidence and good will.

I have, &c.

Lord J. Russell. LYONS.

No. 242.—*Lord Lyons to Lord J. Russell.*—(*Received September* 4.)
(Extract.) *Washington, August* 22, 1859.

On the 19th instant I spoke to General Cass in the sense of your Lordship's despatch to me of the 4th instant. I said, in the terms of that despatch, that Her Majesty's Government regretted the delays which had been interposed to prevent the formal abandonment of the Mosquito Protectorate and of the sovereignty of the Bay Islands, that Her Majesty's Government could make no promise that those intricate affairs would be concluded before the President's message in December, but that they would use their utmost efforts to accomplish that object, and that if they failed, it should be made clear that it was from no fault of theirs.

I also told General Cass that a fresh Mission was about to be sent to Central America, with a view to finish these wearisome negotiations.

General Cass expressed great satisfaction with the information I



notes that I have received from Señor Zeledon in reply to communications from me.

I learn incidentally, and from private sources, that the Nicaraguan Government shows, as I anticipated, more anxiety to conclude the Mosquito Treaty since my arrival in San José and the commencement of negotiations with Costa Rica, than they did before I left Nicaragua.

In the note of the 3rd instant, copy of which I have also the honour to transmit, I confine myself to acknowledging the receipt of Señor Zeledon's official note, and to some general remarks, as I had not at that time received your Lordship's despatch of the 25th of May, containing further instructions on the Mosquito Treaty.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure* 1.)—*Señor Zeledon to Sir W. G. Ouseley.*

(Translation.) *National Palace, Managua, June* 15, 1859.

THE Undersigned, &c., has the honour to reply to Sir William Gore Ouseley's, &c., esteemed first communication of the 13th of May, that the Government of the Republic is disposed to settle definitively the Mosquito question, agreeing essentially to the terms proposed by Sir William Ouseley, with these exceptions:

1. As to the concession (Article IV) of liberty to the city of Greytown to govern itself, and as to the reference to it in the fourth condition of Article III, without prejudice to the obligation of establishing, as was stipulated in the Treaty of Commerce, a free port.

2. As to the character of indemnification and compensation laid down in the conclusion of the said Article IV as to the sum which Nicaragua shall assign for some years in favour of the Mosquitos, which sum Nicaragua will wish to give gratuitously for their religious instruction and civilization.

Moreover, the Government of Nicaragua desires that the sovereignty of the Republic in all the territory which is under discussion may be well defined, and, if possible, guaranteed by Her Britannic Majesty or by her Government, and by that of The United States, in the terms of the Clayton-Bulwer Treaty.

As his Excellency Sir William Ouseley mentions in the note to which I am replying, that his Government cannot accede to some of the modifications agreed upon in the Treaty of Friendship and Commerce, the two Treaties may be considered at the interview which you may be pleased to appoint with the Undersigned, either at Realejo or at any other place within the territory of this Republic, your Excellency being good enough to give me timely notice of your wishes. The Undersigned, &c.

Sir W. G. Ouseley. PEDRO ZELEDON.

(*Inclosure* 2.)—*Señor Zeledon to Sir W. G. Ouseley.*

(Translation.) *Managua, June* 15, 1859.

On the return of the *Vixen* I told your Excellency through Mr. Perry from Chinandega all that it was in my power to say, being absent from the seat of Government, in reply to your letter of the 13th of May last. I should have had great pleasure in complying with your Excellency's wishes if I had been authorized to do so.

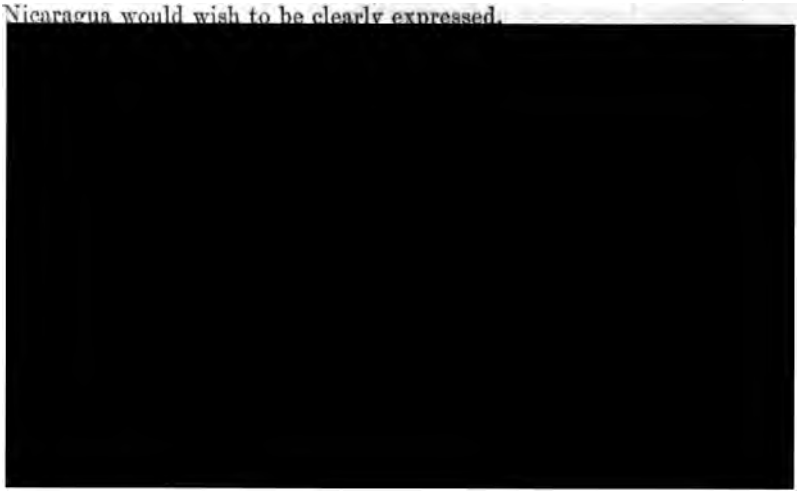
I think that you will have already received, or will receive shortly, the further instructions for which you have asked your Government relative to the succinct project of the Mosquito Convention, which I proposed to your Excellency.

In order to comply with your Excellency's wishes to be informed respecting the objections entertained to the Convention proposed by you, whence they proceeded, and on what particular points, I will acquaint you confidentially that those objections proceed from the Senate in unison with the Government, and that they refer principally:

1st. To the free city in Greytown or San Juan del Norte, for that place, as long as it is severed from the dominion of Nicaragua, will always be a standing menace and an insult to that Republic, as it now is, being made an asylum for the enemies of Nicaragua;

2ndly. To the nature of the indemnification and compensation to the Mosquito Indians intended in the "reasonable sum" treated of in Article IV, in reference to which Nicaragua will gladly contribute for some time the sum which may be agreed upon, but gratuitously, for the religious instruction and civilization of the Mosquito Indians;

3rdly. To the guarantee under which the coast called the Mosquito Coast shall remain, and which, under the circumstances, Nicaragua would wish to be clearly expressed.



(*Inclosure* 3.)—*Sir W. G. Ouseley to Señor Zeledon.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary, &c., had the honour to receive the note of Señor Zeledon, &c., dated Managua, 15th June, in reply to his of the 13th May.

The objections to the proposals on the subject of Greytown, and to the character of the compensation to be made to the Mosquito Indians, will be communicated to Her Majesty's Government. Indeed, the Undersigned is in daily expectation of further instructions relative to the note of the 8th March, which, although not, as was desirable, in the form of a regular counter-project, yet, embodying as it does, the modifications proposed by the Nicaraguan Government, will doubtless elicit the opinion of Her Majesty's Government respecting them.

The Undersigned trusts that the divergence in the proposals of the two Governments is by no means of a nature to offer any very serious difficulty in coming to a mutually satisfactory arrangement of the questions at issue; but he will have the honour, immediately on the receipt of further instructions, again to address the Nicaraguan Government on the subject.

The Undersigned, &c.

Señor Zeledon. W. G. OUSELEY.

No. 244.—*Sir W. G. Ouseley to the Earl of Malmesbury.*
(*Received September* 15.)

MY LORD, *San José, July* 26, 1859.

THE influence of Costa Rica in the arrangement with Nicaragua of the Mosquito question is not founded solely on a mere general interest in the political affairs of a neighbouring State, but is in fact a right exercised in virtue of a Treaty stipulation.

I have the honour of transmitting to your Lordship, for facility of reference, translations of Articles IV and V of the Treaty of Boundary between Nicaragua and Costa Rica, of the 15th of April, 1858.

By these Articles, as also by stipulations in Article VIII, and the general sense of the Treaty, a community of interests and responsibility is established between Nicaragua and Costa Rica, in relation to Greytown and the neighbouring territory.

It follows that in negotiations affecting the districts in question, as also in taking measures for their defence, the Government of Nicaragua is obliged to consult that of Costa Rica, and can only act conjointly with the latter Government. It was for this and other reasons expedient to negotiate at this capital with as little delay as possible.

I may add that the Costa Rican Government is not inclined to make light of their right of interference in these questions.

I have, &c.

The Earl of Malmesbury. W. G. OUSELEY.

(*Inclosure.*)—*Articles IV and V of the Treaty of Territorial Limits between Nicaragua and Costa Rica, signed April* 15, 1858.

(Translation.)

ART. I. The Bay of San Juan del Norte, as well as that of Salinas, will be common to both Republics, and consequently so will likewise be the advantages they possess, and the duty of contributing to their defence. Costa Rica, for the part which belongs to her on the banks of the River San Juan, and on the same conditions by which Nicaragua is bound by Treaties to do it, will likewise be bound to contribute to its defence, in the same manner as the two Republics will contribute to its defence in case of foreign aggression; and for this purpose they must employ every means in their power.

V. Until Nicaragua recovers full possession of all her rights in the port of San Juan del Norte, the use and possession of Punta de Castilla will be entirely common and equal to Nicaragua and Costa Rica, fixing as its limits whilst this common possession lasts all the tract of the River Colorado. And it is further stipulated that whilst the before-mentioned port of San Juan del Norte continues to be a free port, Costa Rica shall not levy on Nicaragua port dues at Punta de Castilla.

No. 245.—*Lord Lyons to Lord J. Russell.*—(*Rec. September* 19.)

MY LORD, *Washington, September* 5, 1859.

[redacted]

desire of the President that they should come as speedily as possible to a satisfactory arrangement with Great Britain.

I told the General that I had, the day before, had an interview with Mr. Dimitry, who had called upon me by the General's desire, and that I had given him a letter of introduction which would, I was sure, dispose Mr. Wyke to enter into the most cordial relations with him.

I thought it well to take this opportunity of giving to General Cass the copy of the Treaty signed by Mr. Wyke with Guatemala on the 30th April last, which was transmitted to me for that purpose with your Lordship's despatch of the 16th ultimo.

I have, &c.

Lord J. Russell. LYONS.

No. 246.—Lord J. Russell to Mr. Wyke.

SIR, *Foreign Office, September 23, 1859.*

I TRANSMIT for your information a copy of a despatch from Her Majesty's Minister at Washington, reporting what passed between himself and General Cass upon his communicating to the General the purport of the instructions which were sent to you with regard to your special Mission to Central America.

I am, &c.

C. L. Wyke, Esq. J. RUSSELL.

No. 247.—Sir W. G. Ouseley to Lord J. Russell.—(Rec. October 2.)

(Extract.) *San José, September 1, 1859.*

THE General Treaty and that relating to the Mosquito Territory are now under consideration by the Congress of Nicaragua.

In conformity with my instructions, I made the Nicaraguan Government aware, some time ago, of the determination of Her Majesty's Government not to ratify the General Treaty until that respecting Mosquito is also concluded. In short, that the two Treaties were to be, except in form, one Convention.

The repugnance of the Government of Nicaragua, or rather that of its Congress, to accepting the Mosquito Treaty is more particularly inspired by two conditions in the Mosquito Treaty, the freedom or "independence," as they consider it, of Greytown, and the payments to the Indians.

The debates on this subject confirm Señor Zeledon's assertions as to the determined opposition that the stipulations in question would meet with from his countrymen, and very possibly from himself.

Lord J. Russell. W. G. OUSELEY.

No. 248.—*Lord Lyons to Lord J. Russell.*—(*Received October* 8.)
(Extract.) *Washington, September* 27, 1859.

I OBSERVED to General Cass, that Her Majesty's Government were, on their part, doing all that depended upon them to give effect to the earnest wish expressed by the President, that the British negotiations in Central America should be brought to a conclusion before the meeting of Congress in December next. But, I said, there could be no hope of accomplishing this, if the Nicaraguans were encouraged to haggle about minute points, much less if such points were to be made a subject of discussion, not only between the British and Nicaraguan negotiators, but between the Nicaraguan Government and The United States, and between The United States and Great Britain. It was, I said, very generally believed that the delays which had already occurred, were attributable to a hope entertained by the Nicaraguans, that, by objecting and losing time, they should at last, by the help of The United States, obtain from Great Britain the unconditional relinquishment of the Protectorate. It had been I added, very confidently asserted that this procrastinating policy had been suggested and encouraged by the Agents of The United States in Nicaragua, and especially by General Lamar, the late United States' Minister to that Republic. Now the only effectual way of aiding the endeavours of Her Majesty's Government to conclude the negotiations within the time upon which the President had laid so much stress, was, I said, in my opinion, to discourage all interference, on the part of The United States' Agents, in the details of the Treaties. Those Agents should be made clearly to understand the President's real wishes, and be told that the criterion of the success or failure of their Mission, would be the conclusion of the British Treaties within the time specified.

[redacted]

No. 249.—Lord Lyons to Lord J. Russell.—(Received October 20.)

MY LORD, *Washington, October 6, 1859.*

I HAVE the honour to transmit to your Lordship herewith, extracts from the newspapers, giving accounts of the recent attempts of Walker and a party of filibusters to make an expedition against Nicaragua, and of the measures taken by this Government to frustrate it.

If the accounts received this morning may be relied upon, Walker and his companions having gone to sea without provisions, have been obliged to put back, and it must be hoped that the Federal authorities will have vigilance and power enough to prevent an immediate renewal of the attempt.

General Cass told me yesterday that when the first news of Walker's departure reached Washington, he thought it impossible that the filibusters could have eluded the precautions taken by order of the Federal Government, and did not believe it. Subsequently, however, the Government received positive intelligence from their own officers. I reminded the General that I had spoken to him only 3 days before, of the great importance of keeping a watch upon Walker's movements, and had pointed out to him the disastrous effect which a filibustering attack upon Central America might have upon Mr. Wyke's negotiations.

The General said that the Federal Government had taken every precaution which their constitutional powers allowed; and he thought it very unlikely that Walker could escape the numerous United States' cruizers, who had peremptory orders to arrest all filibustering expeditions.

I have, &c.

Lord J. Russell. LYONS.

(Inclosure.)—Extract from the "New York Herald" of October 5, 1859.

THE Filibusters are alive again. Despatches have reached us within the last two or three days indicating another movement of the restless and irresistible extensionists at the south, towards liberating Central America from whatever condition she may happen to be in when these ardent patriots arrive on the shores of that happy region.

We give all the information that has thus far reached us:

DESPATCHES FROM WASHINGTON.

Washington, October 4, 1859.

A despatch was received here this morning by the Attorney-General from the District Attorney at New Orleans, stating that the ship *Fashion* had cleared from Mobile, nominally for Galveston, but that her real destination was New Orleans, where she intended

to take on board a large number of men, ammunition, &c., for Central America, headed by General Walker and other notorious filibusters.

Additional despatches were received here by the Secretary of the Treasury to-day, from the Collectors at Charleston, Mobile, and other ports, stating that quite a large force of filibusters had effected their escape, through false papers and various other means, from the above-mentioned ports.

Additional instructions will, therefore, be transmitted by steamers which leave New York to-morrow (5th) to our squadron in the Gulf and Pacific, to keep vigilant watch, and capture them if possible.

Thomas F. Meagher goes out in one of the steamers to-morrow as bearer of despatches to Central America. They are very important, and the Government does not deem it safe to trust them by mail.

Washington, October 4, 1859.

A month ago information was received in this city of filibustering movements against Nicaragua. Although the statement was not fully credited, it was deemed of sufficient importance to justify the issuance of instructions to the proper Federal officers to exercise more than ordinary vigilance, the President himself superintending these precautionary measures.

The recent advertisement in the New Orleans papers of a steamship to sail from Mobile for Chiriqui on the 1st of October, added to the other accumulating suspicious circumstances attending the alleged contemplated invasion of Nicaragua; but, on inquiry of the Collector at Mobile, nothing had been heard to confirm the truth of the report, so far as that port is concerned.



consultation. Orders have been dispatched, by telegraph, to the Commanding Officer at Baton Rouge for concentrating and holding the Federal military in reserve, to be used, if necessary, as a *posse comitatus* for the enforcement of the laws.

It is believed here, and the facts which have just transpired seem to warrant the conclusion, that the filibusters so arranged their plans as to avail themselves of the advantages afforded by the re-opening of the Nicaragua transit route for the accomplishment of their design.

The Administration is determined, by all the means in its power, including the employment of the land and naval forces, to compel respect to the Neutrality Law.

The instructions to Minister Dimitry are particularly with reference to the opening of the transit, and as both Governments have assented to the Lamar-Zeledon Treaty, it is supposed Nicaragua will offer no obstacle to the passage of the mails. The presence of the Postmaster-General in New York, in connection with the last-named subject, is expressive of the interest the Government has in the fulfilment of the Johnson contract.

DESPATCHES FROM NEW ORLEANS.

New Orleans, October 4, 1859.

Collector Hatch has refused a clearance of the steamer *Philadelphia* for Aspinwall, because, it is alleged, the steamer is engaged to take General Walker and 200 or 300 men from Texas, Alabama, and elsewhere, now encamped below this city, and ready to start for Nicaragua. They are ostensibly bound to the Chiriqui diggings, and intending to leave on the 5th.

LATER.

New Orleans, October 4, 1859.

General Walker and his men got off last night, and sailed from Berwick's Bay this morning in their own steamer, without a clearance.

The attempted clearance of the *Philadelphia* for Aspinwall was made to blind the authorities.

Henry Maury commands Walker's steamer.

No. 250.—*Lord Lyons to Lord J. Russell.*—(*Received October* 20.)

MY LORD, *Washington, October* 7, 1859.

GENERAL CASS has sent this morning to tell me that the Government has received by telegraph from New Orleans information that the Federal authorities have arrested 150 men concerned in the recent filibustering attempt, and that a vessel has been

chartered to assist the revenue cuttters in preventing the departure of any fresh expedition.

It is not stated whether Walker himself has been arrested or not; but it is supposed that the 150 arrests must include all, or nearly all those men, who put to sea with him. I have, &c.

Lord J. Russell. LYONS.

No. 251.—*Sir W. G. Ouseley to Lord J. Russell.*—(*Rec. Nov.* 1.)

My Lord, *Cartago, San José, September* 29, 1859.

With reference to your Lordship's despatches of the 15th and 18th of August, which I had the honour to receive by the last mails, I beg leave to explain, that having addressed the Nicaraguan Government in the terms directed by my instructions, and having forwarded to them drafts of the Treaties as amended, the Nicaraguan Minister informed me that the whole subject had been brought under the consideration of the Legislature.

No diplomatic action could then be continued on the subject of those Treaties with Nicaragua until the decision of the Legislative body of that Republic were officially made known.

In order therefore that no time might be lost, and as Costa Rica must be a party to all arrangements of the Mosquito question, I came on to San José, hoping that by the time the Treaties that I was instructed to negotiate with this country were signed, I should have been able to return to Nicaragua to complete the Conventions now under the consideration of that Government.

I respectfully offer this summary of my proceedings, although they are already amply reported in former despatches, as it appears likely, from the tone of your Lordship's despatches, that some of my correspondence has either been lost or delayed. At this season



satisfied, and which has caused me the greatest annoyance, cannot, as I trust your Lordship will perceive on referring to my correspondence, be attributed to any neglect of duty on my part.

I beg leave to remind your Lordship that I was not authorized to admit any alterations in the Mosquito Treaty that might have rendered it more acceptable.

After the General Treaty was signed, I was directed to notify to the Nicaraguan Government that both Treaties were to be concluded simultaneously, but this intimation was far from having the effect of hastening, as was anticipated, the acceptance of the Mosquito Convention; for the language held by the Nicaraguan Congress, on being informed that such was the decision of Her Majesty's Government, was, "If England makes a *sine quâ non* that the Mosquito Treaty be ratified at the same time as the General Treaty, then there will be no Treaty with England at all."

This confirms what I had the honour confidentially to report some months ago, viz., that the ratification in England of the General Treaty being made to depend upon the previous settlement of the Mosquito question, would be likely to prevent the conclusion of the former Convention, without hastening the acceptance of the latter.

There were urgent reasons in January last for signing the General Treaty as speedily as possible, as I have elsewhere had the honour to explain. No delay has been caused by the return of that Treaty unratified, as there has been ample time since it has been placed in its amended form before the Nicaraguan Congress for a decision, and even for a further reference to England. But being coupled with the Mosquito Treaty, which is the real difficulty, it remains inoperative.

I respectfully request your Lordship to bear in mind that, deducting the time employed in travelling from one part of Central America to another, and that necessary for formal preliminaries, about 6 or 7 months only have been devoted to the negotiation of 6 Treaties (including the two Postal Treaties).

Of these two, perhaps 3 with the Post Office Treaty, were to have been signed by the Costa Rican Plenipotentiary and myself in the course of this week at San José; and the General Treaty with Nicaragua is only kept in abeyance to await the settlement of the Mosquito question.

It took The United States above two years to make one Treaty with Nicaragua, and the means of intimidation, almost of coercion, and the language that they employed, were such as my instructions would not authorize me to use.

Four Treaties have, therefore, in fact, been so far negotiated that merely the forms of signature are required for their completion. One has been signed and ratified, and the sixth, the Mosquito

Convention, has been carried so far as to be placed in the hands of the Nicaraguan Legislature. I have, &c.

Lord J. Russell. W. G. OUSELEY.

No. 252.—Lord J. Russell to Mr. Wyke.

SIR, *Foreign Office, November* 16, 1859.

I WAS glad to learn from Mr. Wallis by the last mail that you had arrived at Panamá, and had proceeded to Guatemala, in pursuance of your instructions.

Her Majesty's Government were anxious that you should pay a complimentary visit to the President of that Republic, and that you should assure him of the interest taken by Her Majesty's Government in all that concerns the welfare of the Central American States.

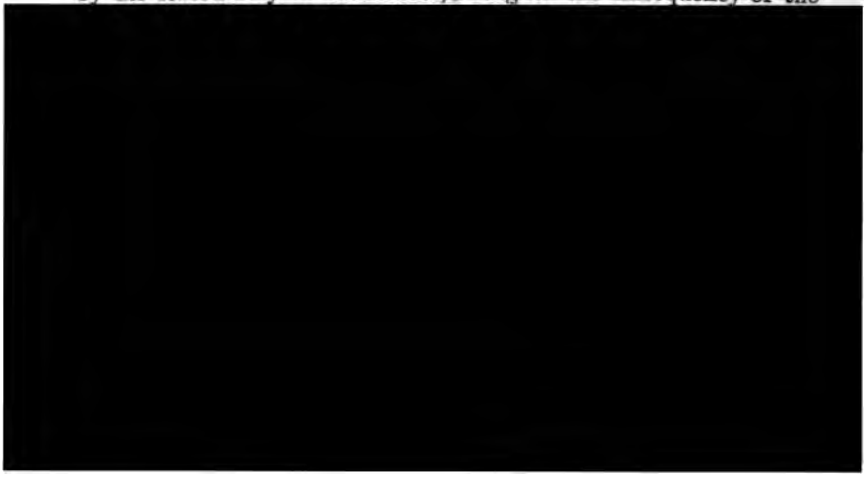
I do not anticipate that you will have been detained long at Guatemala. You were aware of the anxiety of Her Majesty's Government that these Central American questions should be brought to a close before the end of this year, and I trust, therefore, that after concluding arrangements with the Government of the Republic of Honduras, you will have lost no time in repairing to Nicaragua. I am, &c.

C. L. Wyke, Esq. J. RUSSELL.

No. 253.—Lord J. Russell to Lord Lyons.

MY LORD, *Foreign Office, November* 23, 1859.

I HAVE to state to your Lordship that Her Majesty's Government regret the delay which has taken place in the execution of Mr. Wyke's instructions, a delay which appears to have been caused by his forced stay at Guatemala, owing to the infrequency of the



As there is at present no British vessel-of-war on the Pacific Coast of Central America, I shall have to remain here until the 24th of next month, when I hope to leave this State for the port of La Union, on my way to Honduras, by the steamer *Guatemala*, on her return trip down the coast.

The journey from La Union to the capital of Honduras will, I understand, take about 5 or 6 days, so that I cannot well begin my negotiations with the Government of that Republic until somewhere about the 10th of November next.

Lord J. Russell. C. LENNOX WYKE.

No. 255.—*Acting Consul-General Hall to Lord J. Russell.*
(*Received November* 24.)

My Lord, *Guatemala, September* 17, 1859.

The box containing the Queen's ratification of the Convention defining the boundary between the Republic of Guatemala and British Honduras did not come to hand until the 7th instant, 5 days after the departure of the post for England.

The ratifications were exchanged on the 12th instant between Don Pedro de Aycinena, the Guatemalan Plenipotentiary and myself. The ratification of the President of Guatemala goes with this despatch, carefully packed up.

I have also sent, inclosed with the ratifications, a certificate signed by the Guatemalan Plenipotentiary and myself. On signing the certificate of the exchange of the ratifications, I communicated to Don Pedro de Aycinena the message contained in your Lordship's despatch dated the 19th of August, on which he expressed himself highly gratified, and at the same time stated his intention of making a reply to your Lordship in writing.

I have also addressed Her Majesty's Superintendent in Belize, announcing the fact of the exchange of the ratifications having been effected on the 12th instant. I have, &c.

Lord J. Russell. WILLIAM HALL.

No. 256.—*Acting Consul-General Hall to Lord J. Russell.*
(*Received November* 24.)

My Lord, *Guatemala, September* 20, 1859.

In the despatch I had the honour of addressing to your Lordship, dated September 17, and which was inclosed in the box containing General Carrera's ratification of the Convention defining the boundary of British Honduras, I informed you that the ratifications were exchanged on the 12th instant, between Don Pedro de Aycinena, the Guatemalan Plenipotentiary, and myself, on the part of Her Majesty the Queen, and that a certificate signed by me and

the Guatemalan Plenipotentiary was also inclosed within said ratification.

I now do myself the honour to transmit the copy of a letter addressed to me by Don Pedro de Aycinena, expressing his satisfaction at the termination of this affair, and his high appreciation of the benevolent intentions of Her Majesty's Government towards this Republic, and of the frank and friendly spirit evinced during the negotiations which have thereby been brought to so successful a termination.

M. Aycinena then states that, in the opinion of the Guatemalan Government, it would be desirable that two engineers should be forthwith sent out, in order that in the months of November and December next (the most favourable season for so doing), the survey and designs of the line of communication be made, upon which, when effected, the Guatemalan Government will hasten to convey to that of Her Majesty their ideas upon the manner in which the work for forming the road can be carried into execution.

I have, &c.

Lord J. Russell. WILLIAM HALL.

(*Inclosure.*)—*Señor Aycinena to Acting Consul-General Hall.*

SIR, (Translation.) *Guatemala, September* 17, 1859.

THE President has been made acquainted with the tenor of the communication you made to me, by especial orders of Her Majesty's Government, after the exchange of the ratifications of the Convention defining our limits with the settlement of British Honduras, and his Excellency appreciates in their full extent the sentiments of good will on the part of Her Majesty's Government towards this Republic, and entertains the firm persuasion that the frank and friendly spirit in which they have proceeded will secure and

[redacted]

by another well versed in the practical part of road-making, in order that they may begin in November or December next (the season most favourable for so doing), the survey and design of the line of communication, in such directions as may be deemed the most fitting for the object; with the understanding that on our part every help and facility will be afforded that may be deemed necessary. When the survey is made, this Government will hasten to convey to that of Her Majesty their ideas upon the manner in which the work for forming the road can be carried into execution.

The President has commanded me to reply to the manifestation which you were pleased to make to me, after the exchange of the ratifications of the Convention of the 30th of April last, and to seize this opportunity of declaring the high appreciation with which he has received the testimony of esteem which Her Majesty's Government has extended towards him by the frank and speedy conclusion of this Convention. I am, &c.

W. Hall, Esq. P. DE AYCINENA.

No. 257.—Lord J. Russell to Lord Lyons.

My Lord, *Foreign Office, November 24, 1859.*

With reference to my despatch of yesterday's date, I inclose a copy of a despatch from Mr. Wyke reporting his arrival at Guatemala and his intended movements. You will observe that Mr. Wyke states that it would be impossible for him to leave Guatemala before the 24th of October. I am, &c.

Lord Lyons. J. RUSSELL.

No. 258.—Mr. Wyke to Lord J. Russell.—(Received December 21.)

My Lord, *Guatemala, October 11, 1859.*

I was this day received in public audience by General Carrera, President of the Republic, to whom I had the honour of delivering the Queen's letter of credence.

I herewith inclose copy of the address I pronounced on the occasion, together with a translation of his Excellency's reply, the original Spanish version of which will be found in the accompanying "Guatemala Gazette." I am, &c.

Lord J. Russell. C. LENNOX WYKE.

(*Inclosure* 1.)—*Mr. Wyke's Address to the President of Guatemala, on presenting his Credentials.*

Senor Presidente,

I have the honour to place in your hands a letter from my august Sovereign the Queen, accrediting me as Her Majesty's

Envoy Extraordinary and Minister Plenipotentiary on a special Mission to your Excellency.

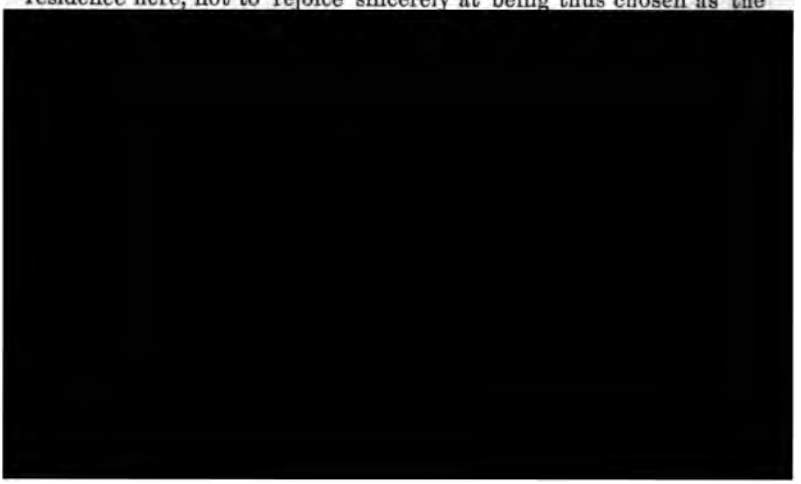
Although Her Majesty's Government have not, at the present moment, any negotiations open with this Republic, they are unwilling to send me in a high diplomatic character to any other of the Republics of Central America, without directing me to repair, in the first place, to Guatemala in a similar character.

They consider this as a mark of attention due to the friendship and confidence recently shown by this Republic to Great Britain, in the frank and prompt conclusion with me of the Treaty defining the boundary of the British settlement of Belize, a Treaty which Her Majesty's Government are convinced will promote the best interests of both parties, not only by bringing about an increased trade between the two countries, which will follow as a natural consequence from the execution of its stipulations, but also from the great advantages likely to accrue to this State in times to come when the full development of its effects shall have justified the sound policy of your Excellency's Government in this transaction.

Her Majesty's Government take a most lively interest in the progress and welfare of this Republic, and they have seen with satisfaction the success which has attended the efforts of its Government to pursue a steady and consistent course in the troubles by which Central America has so frequently been distracted.

It is with peculiar satisfaction that I am enabled to offer your Excellency the expression of the Queen's esteem and regard, as well as the hearty wishes of Her Majesty for the welfare and prosperity of the Republic of Guatemala.

As far as I am personally concerned, I have received too many proofs of your Excellency's kind consideration during a long residence here, not to rejoice sincerely at being thus chosen as the



Sovereign of Great Britain has been pleased to bestow on this Republic and its Chief.

It is equally satisfactory to me to perceive the high opinion that Her Majesty has formed of the frank and friendly spirit evinced on the part of my Government in the adjustment of the Convention fixing the limits between this Republic and the British settlement of Belize.

I have an entire confidence that the most favourable results will ensue from this arrangement, and I likewise entertain the hope that in future it will be attended by still more important ones, by promoting the development of agriculture, especially in our more important departments to the north.

On receiving you in the elevated character with which you have been invested by Her Majesty the Queen, I feel much satisfaction in assuring you that, on my part, nothing shall be wanting to render more perfect the good understanding existing between the two countries, and which the upright, frank, and friendly feeling, of which you have always given proofs in your relations with my Government, has contributed to maintain.

With satisfaction, Señor Minister, I again see you amongst us, and I feel much pleasure in offering you my cordial congratulations on the honourable proof of confidence that you have received from your august Sovereign.

No. 259.—*Mr. Wyke to Lord J. Russell.*—(*Received December* 21.)
(Extract.) *Guatemala, October* 22, 1859.

I AM glad to be able to inform your Lordship that the Guatemala Government, in compliance with my wishes, have written to the Governments of Honduras and Nicaragua, strongly urging them to come to some final settlement with me of questions which, so long as they remain in their present state, are as dangerous to those States as they are unsatisfactory to Her Majesty's Government.

I propose leaving this city the day after to-morrow, in order to embark on the 26th instant, at the port of San José, for La Union, from whence I proceed direct to the interior of Honduras.

Lord J. Russell. C. LENNOX WYKE.

No. 260.—*Mr. Wyke to Lord J. Russell.*—(*Rec. January* 2, 1860.)
(Extract.) *Comayagua, November* 23, 1859.

ON my arrival at the port of La Union on the 30th ultimo, I was met by Mr. Hall, the British Consul in Honduras, who had proceeded to that place in obedience to instructions I had previously sent, as I was anxious to learn from him the light in which my Mission was looked on by the Government of that State.

Mr. Hall informed me that the President was glad to hear of my

intended visit, and that he would probably proceed to the town of Tegucigalpa to meet me, having given orders that a house should be prepared there for my reception.

After a delay of several days, owing to contrary winds, I proceeded to the port of La Brea, and from thence inland to Tegucigalpa, which town I reached on the 8th instant in the afternoon.

I was received there with every attention by the Comandante, who conducted me to the best house in the town, intimating at the same time, that the President would probably arrive there in a day or two.

As however there appeared to be some doubt on this subject, I dispatched a courier, early the following morning, to Comayagua with a private letter for his Excellency, informing him of my arrival, and expressing my willingness to proceed immediately to Comayagua, should his occupations prevent his coming to Tegucigalpa.

In this letter I briefly intimated to him the object of my Mission and pointed out the great importance of not losing any time in proceeding at once with the negotiations with which I was entrusted.

After a delay of several days, I received the President's reply on the 16th, in which he expressed his regret at not being able to come to Tegucigalpa, but offered to name a Commissioner armed with full powers, who should come on there at once in order to treat with me.

I dispatched Mr. Hall the same evening to Comayagua, to tell his Excellency that, under the circumstances, I should proceed on the following day to that place, in order to wait on his Excellency in person.

On my arrival here, on the 20th, I addressed an official note to the Minister for Foreign Affairs, requesting a public audience of the President, and requesting that his Excellency would grant such



Extraordinary and Minister Plenipotentiary on a special Mission to your Excellency.

The object of this Mission is, if possible, to arrive at a satisfactory settlement of sundry questions on which a divergence of opinion has hitherto existed between our respective Governments, but which, when treated of face to face and examined into in a spirit of impartial justice, will, I doubt not, admit of a solution mutually satisfactory to both parties.

That such a result may be arrived at is the earnest desire of Her Majesty's Government, as my presence here must amply prove, and I trust that this wish will be reciprocated by your Excellency and the Government of Honduras.

It affords me great pleasure to be able to assure you of the interest taken by the Queen in the welfare and prosperity of this Republic, as well as of the desire of Her Majesty's Government to maintain the most friendly relations between the two countries.

That my efforts may tend to so desirable an end is, I need not assure your Excellency, my sincere wish; and, if I am met in a similar spirit, I have every hope that such will be the result of a Mission which is in itself a proof of a conciliatory and friendly spirit on the part of Her Majesty's Government.

(*Inclosure* 2.)—*Reply of the President of Honduras.*

(Translation.)

It affords me the highest gratification to know that your august Sovereign the Queen has accredited you her Envoy Extraordinary and Minister Plenipotentiary on a special Mission to this Government.

It has ever been my most anxious wish to conclude and arrange satisfactorily the various questions that have existed between England and this Republic, and, as I trust that they will be treated with impartiality, I have every reason to expect a solution mutually satisfactory to both parties.

Guided by reason and justice, it cannot be doubted that the result will be in conformity with the end proposed, it being my most earnest wish to pay due deference to the kindly feeling entertained towards this country by Her Majesty's Government.

I can never cease to recognize and appreciate, as is due, the interest taken by the Queen in the welfare and prosperity of this Republic, and at the same time the desire of Her Majesty's Government to maintain the most friendly relations between the two countries.

Finally, that every thing may be arranged in a just and proper manner is my most special desire, it being my object not only to satisfy the friendly and conciliatory spirit of Her Majesty's Govern-

ment, but to give you the best testimony of the sincere esteem which, for various motives and considerations, I entertain towards you.

No. 261.—*Mr. Wyke to Mr. Hammond.*—(*Received January* 2, 1860.)

(Extract.) *Comayagua, November* 28, 1859.

I HAVE barely time to send you a couple of lines, written in the greatest haste, as the courier is on the eve of starting for the port of La Union, which it is just, and only just possible, he may reach before the steamer leaves for Panama.

I have succeeded in negotiating a Treaty, which I signed this evening, nearly similar to the one I brought out, having been obliged to alter some portions of the text, but not in any way materially altering its value; and I have also succeeded in getting 5,000 dollars annually for the Mosquito Indians for the next 10 years, that sum having to be paid to their Headman, for the "social improvement and education of said Indians" resident in the district ceded to those Indians.

The elections for the Assembly are now going on, so that it was impossible to call that body together to ratify it, but the President of the Republic has, in order to prove his perfect sincerity, ratified it himself, thus pledging his credit that he will have it ratified immediately on the meeting of the Assembly, which will be on the 15th of January next.

As I only signed the Treaty half an hour ago, and the courier has not a minute to spare, I cannot say more.

E. Hammond, Esq. C. LENNOX WYKE.

No. 262.—*Lord J. Russell to Mr. Wyke.*

(Extract.) *Foreign Office, January* 9, 1860.

[redacted]

No. 263.—*Lord Lyons to Lord J. Russell.*—(*Rec. Jan.* 10, 1860.)
(Extract.) *Washington, December* 26, 1859.

I HAVE this morning had the satisfaction of receiving a letter from Mr. Wyke, written at Comayagua on the 28th ultimo, and informing me that he has concluded a Treaty with the Republic of Honduras, which he believes will be acceptable both in London and at Washington.

I have been to General Cass and have communicated to him this intelligence, and read to him from Mr. Wyke's letter a summary of the stipulations of the Treaty just concluded.

General Cass said that he received the intelligence with extreme pleasure, and that the stipulations appeared to him to be satisfactory.

Lord J. Russell. LYONS.

No. 264.—*Mr. Wyke to Lord J. Russell.*—(*Rec. January* 9, 1860.)
(Extract.) *Comayagua, November* 29, 1859.

I AM glad to be able to inform your Lordship that I have succeeded in overcoming the obstacles which only a week ago appeared to render the success of my mission here extremely doubtful, by signing yesterday evening, a Convention with the Honduranean Plenipotentiary, which I trust will prove entirely acceptable to Her Majesty's Government.

I found myself forced to consent to some alterations and additions in the wording of the several Articles, as set down in the draft of said Convention furnished to me by your Lordship's orders on my departure from England for these countries.

These alterations are in themselves quite insignificant, and in no way affect the real value of the Treaty, besides being amply compensated for by my success in obtaining from this Government the grant of 5,000 Spanish dollars, to be paid annually for the next 10 years, in half-yearly instalments of 2,500 dollars each, to the Headman of the Mosquito Indians in the district, now acknowledged by Her Majesty's Government as belonging to and under the sovereignty of this Republic.

This concession was not obtained until after a severe struggle, but I determined to secure it, in accordance with your Lordship's wishes, as it is but just that the Indians should not lose our protection without receiving some compensation for their loss.

I will now proceed to enumerate and describe the alterations in the original draft of the Convention, to which I have consented, for the reasons already given.

In the first paragraph of Article I, after enumerating the islands,

they wished to insert, "commonly known as the Bay Islands," which of course I did not object to.

In the first sentence of the second paragraph of the same Article, they strongly objected to the literal translation into Spanish of the words "of which they may be possessed," and so at last, after a long discussion, I consented to put "which they may have acquired therein," as, with the context, and what follows, our object is equally well attained.

At the end of that sentence I was obliged also to consent to the insertion of the words, "but remaining in all other respects subject to the laws of the Republic," which, after all, is nothing more than what the inhabitants of said islands must naturally expect to be subject to, if they remain there under the new order of things.

In the first paragraph of Article II, I have changed, at their request the word "claimed" into the word "possessed," which is, if it were of any consequence, in favour of the Mosquito Indians.

At the end of the second sentence of same Article, they wished me to insert "to enable Her Majesty's Government to give the necessary instructions for carrying out the stipulations of said Treaty," to which, of course, I did not object.

In Article III, speaking of the Mosquito Indians, we changed the word "citizens" into "natives," for the simple reason that citizenship in this Republic is only conferred on individuals under certain conditions, such as being of age, and being able to read and write, &c.

At the end of that paragraph I inserted the clause, by which an annual grant of 5,000 dollars, payable in half-yearly instalments of 2,500 dollars each, is secured to the Headman of the Mosquito Indians in the district now ceded; the payment of said sum being



Belize, and therefore a compromise was made by naming Guatemala, as neutral ground, where neither party would find any difficulty in obtaining the services of fit and proper persons to act as their Commissioners.

Such is the Convention which I have now the honour to transmit to your Lordship, and I trust that it may be approved of by Her Majesty's Government.

As the elections are now going on for one-half of the members of the Assembly, it was of course impossible to call that body together to ratify the Treaty, but the President has affixed his ratification of it to the document itself, by a decree, declaring the Treaty to be considered as a law of the State as soon as it shall have been ratified by the Supreme Legislative Power, to whom it will be submitted at their next meeting, on the 15th of January.

I have not the slightest doubt that the Treaty will be ratified by the Legislature, as the President has a decided majority there, and he has now pledged himself to its ratification.

The ratifications of the Treaty are to be exchanged at Comayagua (which can be done by Consul Hall), in deference to the wishes of this Government, who have no agent in London to perform that office for them.

Lord J. Russell. C. LENNOX WYKE.

(*Inclosure.*)—*Treaty between Her Majesty and the Republic of Honduras.—Comayagua, November* 28, 1859.

[See Vol. XLIX. Page 18.]

No. 265.—*Mr. Wyke to Lord J. Russell.*—(*Rec. January* 19, 1860.)

(Extract.) *Comayagua, November* 29, 1859.

As I consider the ratification of the Treaty I yesterday signed with this Government to be quite safe, I mean to leave Comayagua, *en route* for Nicaragua, the day after to-morrow, as the sooner I reach that Republic the better. The Honduras Legislature will assemble on the 15th of January next, and the Treaty will be submitted to that body for ratification during the first days of the session, and when approved of, its ratification will be immediately forwarded to me in Nicaragua.

I hope to be at Managua about the 27th of next month, and if so, I shall begin my negotiations with the Government of that State as soon afterwards as possible.

Lord J. Russell. C. LENNOX WYKE.

No. 266.—*Lord J. Russell to Mr. Wyke.*

SIR, *Foreign Office, January* 26, 1860.

I HAVE received and laid before the Queen your despatch of the

29th of November last, inclosing the Convention with the Government of Honduras, and I have to convey to you the entire approval of Her Majesty's Government of your proceedings, and especially of your having induced the Plenipotentiary of Honduras to consent to the insertion of a clause by which that Republic engages to pay an annual sum of 5,000 dollars for the next 10 years to the Mosquito Indians.

I am, &c.

C. L. Wyke, Esq. J. RUSSELL.

No. 267.—*Mr. Wyke to Lord J. Russell.*—(*Rec. February* 1, 1860.)

MY LORD, *Managua, December* 24, 1859.

I HAVE the honour to report to your Lordship my arrival here the day before yesterday.

As General Martinez was absent from the capital, I was this day presented to Don Fernando Guzman, Vice-President of the Republic, who is at present Chief of the Executive. I have the honour to transmit an address I delivered on the occasion, together with the Vice-President's reply thereto.

I have, &c.

Lord J. Russell. C. LENNOX WYKE.

(*Inclosure* 1.)—*Mr. Wyke's Address on presenting his Credentials to the President of Nicaragua.*

SENOR PRESIDENTE,

I HAVE the honour to place in your hands a letter from my august Sovereign the Queen, accrediting me as Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to your Excellency.

Entrusted by Her Majesty's Government with the settlement of



and I entertain a firm hope and belief that these also may be happily adjusted by the same means as already indicated.

That such an end may be arrived at is the earnest desire of Her Majesty's Government, as my presence here must prove, and I trust that this wish may be reciprocated by your Excellency and the Government of Nicaragua.

It affords me great pleasure to be able to assure you of the interest taken by the Queen in the welfare of this State, as well as of the desire of Her Majesty's Government to maintain the most friendly relations between the two countries.

That my efforts may tend to bring about so desirable a result is my most earnest wish, for I have passed too many years in Central America not to take a lively interest in the future progress and prosperity of this Republic.

(*Inclosure* 2.)—*Reply of the President of Nicaragua.*

SENOR, (Translation.)

HIS Excellency the President has seen with great satisfaction the autograph letter from your august Sovereign, in which you are accredited Her Envoy Extraordinary and Minister Plenipotentiary to this Government, as it proves the desire of Her Majesty to arrange the questions pending with the Republics of Central America, and especially with that of Nicaragua.

Since Nicaragua has been erected into an independent Republic she has relied, and is justified in so doing, on the fraternity and justice which all nations, great or small, mutually owe to one another, and has counted upon those benefits which her friendship and good relations with other States might be expected to produce.

Wherefore, she has never ceased to hope that Great Britain would desire to settle with this Republic those questions which have hitherto paralysed the effects of their friendship and good understanding, and the conclusion of which will be an honour to both parties.

The good disposition which you announce on the part of your Sovereign, and the choice which she has made of a person whose antecedents are so highly esteemed by us, strengthen the hopes of this Government, which desires nothing so much as to confirm the progress and prosperity of the Republic by her relations with the great Powers, and to contribute by her own resources to the universal progress and prosperity.

No. 268.—*Mr. Wyke to Lord J. Russell.*—(*Received February* 17.)

(Extract.) *Nicaragua, January* 10, 1860.

ON the 24th ultimo, I had the honour of reporting to your Lordship my arrival here, at the same time that I transmitted

copies of the address I delivered on the occasion of my presentation to the Vice-President of the Republic, together with his Excellency's reply thereto.

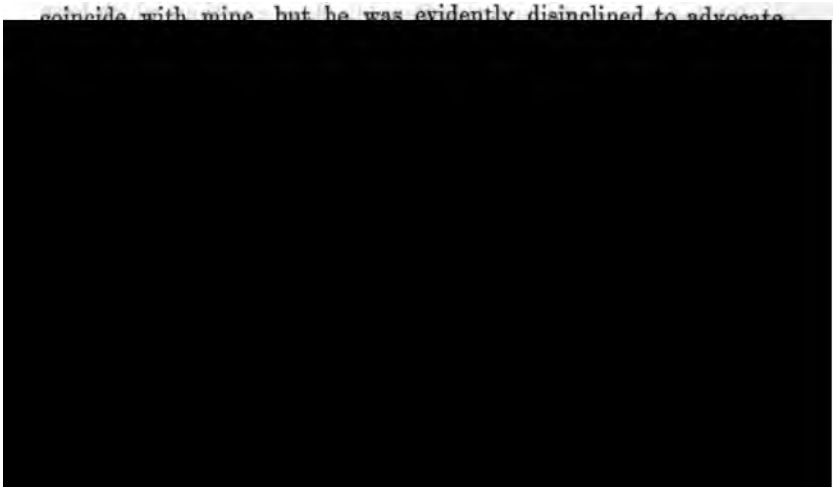
Two days afterwards I had a long conference with Don Pedro Zeledon, the Nicaraguan Minister for Foreign Affairs, to whom I communicated in conversation the bases of the Treaty I had to propose for the final settlement of the Mosquito and Greytown question.

He told me that the general impression here was, that I had come to make an unconditional surrender of our Protectorate, without making any stipulations whatever for securing the rights either of the Mosquito Indians themselves or of British subjects who may have obtained grants of land or other advantages from them.

I at once told Don Pedro Zeledon that if his Government seriously entertained such an idea as this, all negotiations between them and myself on this matter would become impossible, as Her Majesty's Government would never consent to surrender their Protectorate over Mosquitia, except on certain conditions which had been made as little burdensome to the Nicaraguan Government as was compatible with our honour and the rights of others which we were bound to defend.

In a subsequent conversation with him, I dwelt still more on the impossibility of their ever obtaining what they wanted on such terms, and pointed out the extreme danger to Nicaragua herself of rejecting the second and final overture of Her Majesty's Government, who, should their present offer be refused, would leave this country to its fate in any eventuality that might arise hereafter with reference to this question.

I think I succeeded in finally bringing Don Pedro's views to coincide with mine, but he was evidently disinclined to advocate



definitive has been agreed on between us, as he evidently fears the responsibility of accepting the terms offered, until Don Pedro Zeledon returns, and Don Pedro, it is said, remains away on purpose to avoid that of which Don Rosalio is afraid.

They require a modification of Article III, to make their sovereignty over the district inhabited by the Mosquito Indians more evident, and to prevent said Indians from adopting any new regulations which might interfere with the same.

They also require that, in case the Republic is invaded by a foreign enemy, the Mosquito Indians should be bound to defend the territory so occupied by them.

In Article II they object to paying the annual sum of 5,000 dollars, pleading their poverty as an excuse.

Article VI does not please them for obvious reasons.

Article VII they dislike, and require some modifications more clearly defining their legal jurisdiction over the free port of Greytown.

Article VIII has already given rise to long discussions and objections on their part, but in this, as in the others, I hope finally to carry my point, although with modifications, which I shall take care shall not essentially interfere with what we require.

Should my hopes be realized in this respect, a new difficulty has to be overcome, in getting them to call an extraordinary meeting of the Assembly, to which they are greatly averse.

Your Lordship may rely on my using every effort to bring the negotiations to a successful termination, if my health only holds out.

I have twice broken down already, and been confined to my bed with fever, so that there is every reason on my part to urge them to come to a prompt conclusion of this harassing work in a climate so trying to a shattered constitution.

I am anxiously expecting the return of Don Pedro Zeledon, as during his absence nothing final will be done.

Lord J. Russell. C. LENNOX WYKE.

No. 269.—*Mr. Wyke to Lord J. Russell.*—(*Received March* 6.)

(Extract.) *Managua, January* 28, 1860.

I HAVE the honour to inclose copy of the Treaty which I this day signed with Don Pedro Zeledon, keeping the original until I have some safer means of forwarding it to your Lordship.

I will now state, as briefly as possible, my reasons for admitting the alterations you will perceive, in the various Articles of the original draft.

That in Article I is a concession to national susceptibilities,

besides explaining why the British Protectorate is only to cease 3 months after the exchange of the ratifications; both necessary with a view to its passing the Assembly.

The alteration in the first part of Article II is quite unimportant, that in the last paragraph was consented to in order to remove an idle fear, that the Chief of the Mosquito Indians might for a sum of money transfer his interest in the district referred to, to any foreign speculator.

Articles III and IV remain as in the original draft.

In Article V, I have obtained for the next 10 years an annual payment to the King of the Mosquito Indians of 5,000 hard dollars.

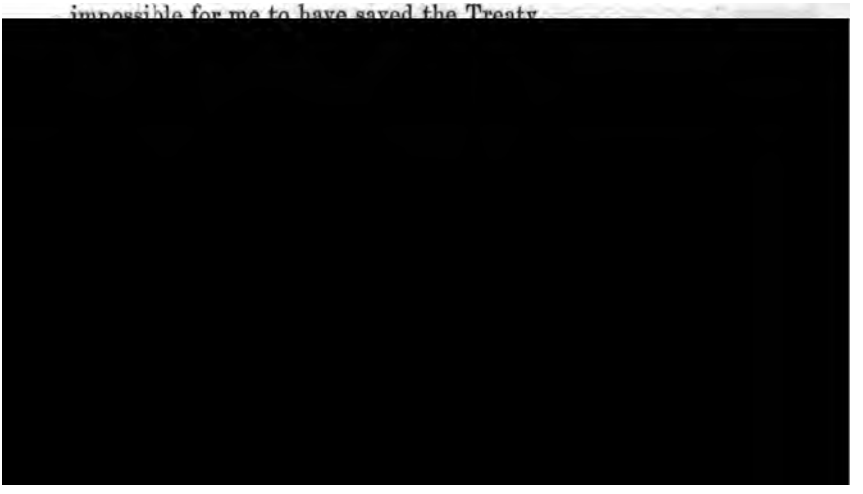
This payment made in the way indicated, secures its safety to him, without in any way interfering with the American or English Commercial Treaties, as it is only on those packages of goods destined for consumption in the territory of the Republic, that the tax according to their weight will be levied.

The alteration in Article VI was necessary to make it pass the Assembly, as that body, Don Pedro assured me, would never agree to it in its original form.

I had the greatest difficulty in carrying Article VII, as they wanted more clearly to assert their legal jurisdiction over the port of Greytown.

In the form I have now given it, all that we want is secured, at the same time that it is made less unacceptable to them. The change in the latter part of the Article follows as a matter of course in consequence of the new form given to Article V.

Article VIII, I had even still greater difficulty with, and had I not given it the form it has now assumed, it would have been impossible for me to have saved the Treaty.



had two attacks of fever already, and am daily getting weaker and weaker.

A continued residence of 8 years out in these countries, with only an interval of two months' rest at home last summer, has completely broken me down and rendered a prompt return to England a matter of absolute necessity to me.

I hope to see Don Pedro to-morrow before the departure of the mail, to learn from him when he will be ready to sign the Commercial Treaty negotiated by Sir William Ouseley, and returned with the modifications admitted by Her Majesty's Government.

Lord J. Russell. C. LENNOX WYKE.

(*Inclosure.*)—*Treaty between Her Majesty and the Republic of Nicaragua, relative to the Mosquito Indians, and to the Rights and Claims of British Subjects.—Managua, January* 28, 1860.

[See Page 96.]

No. 270.—*Mr. Wyke to Lord J. Russell.*—(*Received March* 16.)

(Extract.) *Managua, February* 11, 1860.

SUBSEQUENT to the signature of Sir William Ouseley's Commercial Treaty with this Government, Señor Zeledon negotiated and signed a similar one with General Lamar, The United States' Minister, which was accepted by the Cabinet of Washington, and sent to The United States' Senate for ratification.

This Treaty contains an Article guaranteeing not only the neutrality of the transit route, but also its "innocent use," being, however, in all other respects similar, Señor Zeledon informs me, to the draft of the Ouseley Treaty which I brought out from England in August last.

It appears now that the Nicaraguan Congress has established it as a fundamental principle, that, hereafter, all Treaties made by this Republic with the Governments of Great Britain and of The United States shall be on a perfect footing of equality in all that concerns privileges to be granted, or protection to be demanded, and, that, therefore, as The United States' Government have extended their protection by the Lamar Treaty to the "innocent use" of such routes, Great Britain must do so likewise, if she wishes to have a Treaty with Nicaragua.

This Government naturally entrenches itself behind this resolution, and declares it is of no use their signing a Treaty which will not be ratified by the Congress.

As, on the present occasion, the Mosquito Convention must be carried through the Chamber under the wing of the Commercial Treaty, without which it would never be accepted, I am forced to give way on this point, by admitting the insertion in Article XXI

of the words "and innocent use," but only on the condition that I should obtain from Señor Zeledon a declaration in writing, clearly setting forth that, if the similar stipulation in the Lamar Treaty is not sanctioned by The United States' Senate, these words shall be expunged from our Commercial Treaty, which would then remain exactly similar to the draft of it which I brought out with me.

Since writing the above, I have received the desired communication from Señor Zeledon, and have signed the Treaty with him, and have now the honour to inclose both under the same cover with the orignal of the Mosquito Convention, copy of which I inclosed to your Lordship in my despatch of the 28th ultimo.

In the first sentence of the second paragraph of Article XXI they had placed in the Spanish version, that one free port at each of the extremities of "one" of these routes should be established.

This I, of course, would not admit, and then had the word which I have quoted effaced, leaving the stipulation thus even stronger than it is in the English version.

Don Pedro made a hard struggle to maintain his version, but I insisted upon having my own way.

Where the erasure has taken place, Don Pedro and myself placed our initials, so as to avoid the possibility of any future dispute as to the meaning of the change.

A Decree is to be issued to-day, I hear, calling the Assembly together for the 1st of March next, when these two Treaties are to be submitted to that body for ratification.

Both Mr. Eden and myself have suffered so much in health from a two months' residence in this sickly place, that I am about leaving it for Leon for change of air.

The session, which is an extraordinary one, will only, I believe, last 3 weeks, so that I hope to leave Nicaragua for England at the



and The United States they shall also be retained in that concluded by your Excellency and the Undersigned, but that, if not, they shall be suppressed in the said Treaty.

I have the honour to communicate this to your Excellency, in accordance with your wishes, and have, &c.

C. L. Wyke, Esq. PEDRO ZELEDON.

(*Inclosure* 2.)—*Mr. Wyke to Señor Zeledon.*

SIR, *Managua, February* 11, 1860.

I HAVE the honour to acknowledge the receipt of your Excellency's note of this day's date, having reference to the conversation we had yesterday relative to the words "and innocent use," contained in Article XXI of the Treaty of Friendship, Commerce, and Navigation between the Republic of Nicaragua and Her Britannic Majesty.

In that note you assure me that, should the same words "and innocent use" not be retained in the XVth Article of the Zeledon-Lamar Treaty between The United States and Nicaragua, they shall be suppressed hereafter in the Treaty between Her Britannic Majesty and Nicaragua, which, on this understanding, I shall have great pleasure in signing with you to-day.

I have, &c.

Señor Zeledon. C. LENNOX WYKE.

No. 271.—*Mr. Wyke to Lord J. Russell.*—(*Received May* 12.)

MY LORD, *Nicaragua, March* 4, 1860.

THE day before yesterday I learned, by special courier from Honduras, that the Assembly of that State had at length ratified the Convention, which I signed on the 28th of November last with Don Francisco Cruz.

It appears that after my departure from Comayagua there was great difficulty in getting sufficient members together to form a Chamber, on the 15th of January, when they were summoned to meet, and that even when they had come together, considerable reluctance was displayed to ratify the Treaty as it stood. Finally, by bringing all the influence of the Government to bear, it passed the Chamber and the Senate, and was about being formally declared as "a law of the State," to use their favourite expression, when the Chapter of the Cathedral addressed a petition to the Chambers, praying that the Treaty might be again taken into consideration on account of the liberty of religious worship in the Bay Islands therein stipulated for, and which, it was asserted, is contrary to the Constitution.

Although this petition was untimely and ill-judged, as the Treaty had already obtained due publicity ever since the month of

December last, and all parties had had sufficient time to express their opinion on its merits, yet the Legislative Assembly, in deference to the Chapter, resolved to pass their petition to a Select Committee in order to decide whether its object should be entertained or not.

Fortunately they finally decided in the negative, and the Convention was thus ratified, and cannot now be revised.

In a private letter of the 21st ultimo, Mr. Hall, our Consul in Honduras, informs me that this result was only attained by a majority of one vote, thus proving that the opposition to the Treaty was much stronger than was anticipated by the Government when I left Honduras in November last. I have, &c.

Lord J. Russell. C. LENNOX WYKE.

No. 272.—Mr. Wyke to Lord J. Russell.—(*Received May* 12.)

(Extract.) *Leon, April* 2, 1860.

THE Special Congress called together by this Government for the purpose of ratifying the Mosquito Convention and the Commercial Treaty which I lately signed with Don Pedro Zeledon, met on the 6th ultimo, from which time up to the 29th of the same month, the most violent opposition was displayed by its members to the stipulations contained in the Convention, which at one time ran a considerable risk of being rejected altogether, a fate that would certainly have attended it, had not the Government at the last moment compromised matters with them, by agreeing to accept a modification of Article VIII, provided they would ratify the remainder of the Convention as it stood.

They next directed their attention to the Commercial Treaty, Article II of which they modified, and totally suppressed Article III, adding that the ratification of the Treaty with these alterations



the addition to Article VIII was then admitted, the literal translation of which is as follows:

"It is understood that the grants of land treated of in this Article, shall not extend to the westward of the territory reserved for the Mosquito Indians, in Article II, further than 84° 30′ of longitude, in an equal and parallel line with said territory on the same side. And in the event of any grants having been made still farther into the interior of the Republic, the lands so acquired *bonâ fide*, shall be replaced (*sic*) with those that are within the limits assigned, under the same conditions as are already stipulated."

The wording of the addition or modification appears at first sight to be somewhat ambiguous, but its real meaning, as explained to me on the spot, is plain enough.

As they fear that some of the former Mosquito grants may have extended even into the interior of the Republic of Nicaragua, they are naturally anxious to confine such grants within a stated limit, and therefore fixed on the line of 84° 30′ west longitude, as the boundary beyond which these grants should not extend to the westward, at the same time stating, however, that if any such grants did so extend to the westward, the holders thereof should receive an equivalent by fresh grants of land made to them, under the same conditions as the others, within the limit above mentioned.

All things considered, however, the efforts of the opposition have not produced those evil results which I at one time feared, for their modification does not essentially interfere with the real sterling value of the Convention as it stands, which finally terminates a question which, as long as it remained unsettled, might eventually have led to serious embarrassments with the Government of The United States.

The modifications of the Congress in the Commercial Treaty with Nicaragua are as follows;

In the 11th line of the first paragraph of Article II, the words "native subjects" are changed into "natives of other countries."

Article III of the Treaty is entirely suppressed, and the ratification of the Commercial Treaty is made dependent on that of the Mosquito Convention by Her Majesty's Government.

These alterations in the Treaty were made with a view of putting it on a footing of perfect equality with those lately signed with France and The United States, to neither of which Powers has Nicaragua granted the freedom of its coasting trade.

On the opening of the session, the President, in addressing both Houses, made a straightforward and sensible speech, advising them to terminate a question which, as long as it remained unsettled, was dangerous to the safety and well-being of the country, but notwithstanding this, the efforts of the opposition to upset the Convention

were soon so evident that the Government became alarmed, and requested me to return to Managua in order to aid them in gaining over the hostile Members.

Had I consented to their wishes, only mischief would have ensued, for reasons which I need not now detail, so I at once declined.

Feeling, however, that it was necessary to have some one on the spot to report accurately to me the proceedings of the Congress during its sittings, I dispatched Mr. Eden from Leon to Managua, at the same time informing the Government of my having done so, with a view to his being a sure medium of communication between them and myself, in the event of anything occurring to require my direct intervention.

During the fortnight that Mr. Eden remained at Managua, he showed great prudence and judgment, accurately reporting to me all that occurred, and strictly obeying the instructions I sent him in reply.

At length, seeing no diminution in the violence of the opposition, and that the session was rapidly drawing to a close, I determined on the 25th to recall Mr. Eden at once to Leon, as they appeared to have conceived a notion that he was authorized by me to make some concession to their demands at the last moment, so as to save the Convention from rejection.

Undeceived on this point by Mr. Eden's sudden departure to rejoin me, they at length yielded so far as to renounce their other objections, and finally to settle down into the one point, of refusing the unlimited recognition of land grants without the territory reserved for the Mosquito Indians.

The Government then finding that it was impossible to drive them from this last stronghold, at length gave way also, and the Convention and Commercial Treaty were ratified by the Congress, with the addition and modifications above described.

Thus has terminated a most arduous work.

Lord J. Russell. C. LENNOX WYKE.

(*Inclosure* 1.)—*Señor Cortez to Mr. Wyke.*

(Translation.) *National Palace, Managua, March* 31, 1860.

THE Legislative Decree of the 30th instant, ratifying the Treaty of Friendship, Commerce, and Navigation, which was signed on the 11th Feburary last, by you and Señor Don Pedro Zeledon, provides by its second article that Article II of the said Treaty be read thus:

"The two High Contracting Parties, being desirous of establishing the trade and navigation of their respective countries upon

liberal bases of perfect equality and reciprocity, mutually agree that the citizens of each of them may frequent and inhabit all the coasts and places of the other, and that they may purchase and hold every kind of property which the laws of the country allow foreigners of any nation to hold; and that they may engage in every kind of trade, manufacture, and mining, on the same terms as the citizens and subjects of other countries.

"In regard to those matters they shall enjoy all the privileges and concessions granted, or which may hereafter be granted, to the citizens or subjects of any country whatever; and in navigation, trade, and manufactures, they shall enjoy the rights, privileges, and immunities which are enjoyed, or may hereafter be enjoyed, by citizens or native subjects, complying with the established laws which are binding on the citizens and native subjects of the country. The ships of war and postal packets of each of the Contracting Parties shall respectively be at liberty to enter into all those ports, rivers, and places of the territory of the other, into which the ships of war and postal packets of other nations are, or may hereafter be, allowed to enter; and to cast anchor, to remain, and to repair, subject always to the laws of the two countries respectively. The two High Contracting Powers, moreover, bind themselves that neither of them shall grant any favour to another nation, in respect of commerce and navigation, which shall not immediately be communicated to the other High Contracting Party."

The third Article of the said Decree suppresses Article III of the same Treaty, and the fourth Article orders that the ratification, on the part of the Republic, shall not take effect until the Convention relative to the Mosquito territory recently concluded shall have been ratified by both parties.

I have the honour to communicate this to you for your information, and to repeat the assurances, &c.

C. L. Wyke, Esq. ROSALIO CORTEZ.

(*Inclosure* 2.)—*Señor Cortez to Mr. Wyke.*

(Translation.) *National Palace, Managua, March* 31, 1860.

THE august Congress of the Republic, in ratifying the Convention respecting the Mosquito territory, signed by you and Señor Don Pedro Zeledon on the 22nd January last, has thought proper to add a clause to Article VIII of the same, in the following manner:

"It is understood that the grants of land treated of in this Article shall not extend on the western side of the territory reserved to the Mosquito Indians by Article II, further than 84° 30′ of longitude, in a line equal and parallel with that of the said territory

on the same side; and if it should be the case that any grants of land have been made further to the interior of the Republic, the lands acquired *bonâ fide* shall be replaced by those which are within the line defined by the regulation agreed to."

I have the honour to communicate this for your information.

C. L. Wyke, Esq. ROSALIO CORTEZ.

No. 273.—Lord J. Russell to Mr. Wyke.

SIR, *Foreign Office, June* 10, 1860.

I RECEIVED, on the 16th of March last, the originals of the Treaties which you signed with the Plenipotentiaries of Nicaragua, at Managua, on the 28th of January and the 11th of February, and the ratifications of which by Her Majesty will be forthwith prepared.

I have great pleasure in conveying to you Her Majesty's entire approval of your conduct in regard to these Treaties, and generally of your proceedings in Central America in execution of the instructions which I addressed to you on your departure for that country in the month of August last. I am, &c.

C. L. Wyke, Esq. J. RUSSELL.

No. 274.—M. de Marcoleta to Lord J. Russell.—(Rec. July 24.)

(Translation.) *London*, 6, *Old Cavendish Street, July* 24, 1860.

I HAVE the honour to inform your Excellency that I arrived in London yesterday evening, charged and specially empowered to proceed to the exchange of ratifications of the Treaty concluded between Her Britannic Majesty and the Republic of Nicaragua, respecting the Mosquito coast and territory, of the Treaty of Commerce and Navigation, as also that of the Postal Convention; the first and second of which Treaties were concluded with Mr. C. Len-



(*Inclosure* 1.)—*Modifications made in the Treaty of January* 28, 1860, *respecting the Mosquito Indians, &c.**

Ratification.

(Translation.) *Managua, January* 28, 1860.

THE Government agrees. The preceding Treaty is approved, being arranged in conformity with the instructions issued:

To be brought before the Legislative Power for ratification thereof.

(L.S.) THOMAS MARTINEZ.
(L.S.) PEDRO ZELEDON, *Minister of Foreign Affairs.*

Article VIII shall have an additional clause as follows:

"It is understood that the grants of land treated of in this Article shall not extend on the western side of the territory reserved to the Mosquito Indians by Article II, further than 84° 30′ of longitude, in a line equal and parallel with that of the said territory on the same side; and if it should be the case that any grants of land have been made further to the interior of the Republic, the lands acquired *bonâ fide* shall be replaced by those which are within the line defined by the regulation agreed to."

When the present Treaty shall be equally ratified on the part of Her Britannic Majesty and the exchange shall be effected, as provided in Article XII, it shall become a law of the Republic.

Given in the Hall of Meeting of the Chambers of the Senate, in Managua, the 17th day of March, 1860.

HERMENEGILDO ZEPEDA, S.P.
T. MIGUEL CARDENAS, S.S.
MANUEL REVELO, S.S.

Hall of Meeting of the Chamber of Deputies, March 29, 1860.

To the Executive Power:

BUENAVENTURA SELVA, D.P.
ANTONINO FALLA, D.S.
JOSE A. MEGIA, D.S.

Managua, April 4, 1860.

Therefore be the same done.

THOMAS MARTINEZ.
PEDRO ZELEDON, *Minister of Foreign Affairs.*

(*Inclosure* 2.)—*Ratification of the Treaty of Friendship, Commerce, &c. signed February* 11, 1860.

(Translation.) *National Palace, Managua, February* 12, 1860.

THE Government having examined the above Treaty and found

* See Declaration of August 2, 1860. Page 105.

it in conformity with the instructions given, is pleased to grant its approbation.

Let it be brought before the Legislative Power at its next meeting. THOMAS MARTINEZ.

PEDRO ZELEDON, *Minister of Foreign Affairs.*

Article II is to be read thus:

"The two High Contracting Parties being desirous of establishing the trade and navigation of their respective countries upon liberal bases of perfect equality and reciprocity, mutually agree that the citizens of each of them may frequent and inhabit all the coasts and places of the other, and that they may purchase and hold every kind of property which the laws of the country allow foreigners of any nation to hold; and that they may engage in every kind of trade, manufacture, and mining, on the same terms as the citizens and subjects of other countries.

"In regard to those matters they shall enjoy all the privileges and concessions granted, or which may hereafter be granted to the citizens or subjects of any country whatever; and in navigation, trade, and manufactures, they shall enjoy the rights, privileges, and immunities which are enjoyed, or may hereafter be enjoyed by citizens or native subjects complying with the established laws which are binding on the citizens and native subjects of the country. The ships of war and postal packets of each of the Contracting Parties shall respectively be at liberty to enter into all those ports, rivers, and places of the territory of the other, into which the ships of war and postal packets of other nations are, or may hereafter be, allowed to enter; and to cast anchor, to remain, and to repair, subject always to the laws of the two countries respectively. The two High Contracting Powers moreover bind themselves that neither of them shall



Meeting Hall of the Chamber of Deputies,
Managua, March 30, 1860.

To the Executive Power:

BUENAVENTURA SELVA, D.P.
ANTONINO FALLA, D.S.
JOSE A. MEGA, D.S.

Managua, April 4, 1860.

Therefore be the same done.

THOMAS MARTINEZ.
PEDRO ZELEDON, *Minister of Foreign Affairs.*

No. 275.—*Lord J. Russell to the Lords Commissioners of the Admiralty.*

My Lords, *Foreign Office, July* 25, 1860.

In my letter to your Lordship of the 16th of August last, inclosing a copy of an instruction I had addressed to Sir Charles Wyke, respecting the protection to be afforded by Her Majesty's vessels of war to the Republics of Central America in case of a threatened attack by filibusters, I did not contemplate the necessity of continuing that protection after Sir Charles Wyke's special Mission should have been brought to a close. Her Majesty's Government have, however, received such well-authenticated reports of an intended descent of filibusters upon the Bay Islands, which, under the Treaty with Honduras, have become a portion of the territory of that Republic, that they consider it necessary to repeat those instructions.

I have accordingly to signify to your Lordships the Queen's commands that the senior officers in command of Her Majesty's ships-of-war on the Atlantic and Pacific Coasts of Central America should be informed that they are to regard as still in force the instructions they received last year to protect the Central American Coasts, including the Bay Islands, during the continuance of Sir Charles Wyke's special Mission.

I am, &c.

The Lords Commissioners of the Admiralty. J. RUSSELL.

No. 276.—*Lord Wodehouse to the Secretary to the Admiralty.*

Sir, *Foreign Office, July* 31, 1860.

With reference to Lord John Russell's letter to the Commissioners of the Admiralty of the 25th instant, I am directed to request that you will state to their Lordships that it appears, from recent intelligence received from the Bay Islands, that a vessel called the "John A. Taylor" has arrived at the Bay Islands with Walker and a party of Americans on board.

It is probable that the designs of Walker and his party will have been frustrated by the presence of a detachment of British troops

on the Island of Ruatan, but it is desirable that a British ship-of-war should proceed to the Bay Islands as soon as possible, in order to afford protection to the inhabitants from the attempt of filibusters; and I am therefore to request that you will move their Lordships to give orders by the mail of the morning of the 2nd of August to the Admiral on the West India Station to dispatch one of Her Majesty's ships without delay on this service. I am, &c.

The Secretary to the Admiralty. WODEHOUSE.

No. 277.—Lord J. Russell to Lord Lyons.

My Lord, *Foreign Office, August 4, 1860.*

In my despatch of the 16th of August last, I instructed your Lordship to communicate to General Cass a copy of the Treaty which Her Majesty's Government had concluded with the Republic of Guatemala for defining the boundary between that State and the Settlement of Belize. Sir Charles Wyke was at that time about to proceed to Central America on the special Mission with which he had been charged by Her Majesty's Government; and you were directed to state to General Cass, frankly and without reserve, the earnest desire felt by Her Majesty's Government that the controverted questions arising out of the Clayton-Bulwer Treaty should be settled, and to explain to him the nature of the instructions with which Sir Charles Wyke had been furnished with that object.

I have now to instruct your Lordship to communicate to General Cass the inclosed copies of Treaties which have been concluded by Her Majesty with the Republics of Honduras and Nicaragua.

These Treaties, as you will perceive, provide for the relinquishment of the Protectorate of the Mosquito Indians by Great Britain, and for the cession of the Bay Islands to Honduras; and thus, it may be hoped, finally set at rest the questions respecting the interpre-



with a devout acknowledgment of the mercies of our Heavenly Father, whose superintending care has watched over and graciously conducted this young nation through the vicissitudes of another year.

Our seasons have been favourable. The soil has very bountifully rewarded the hand of industry. Commerce has manifestly increased. With few exceptions among some of the native clans, peace predominates. Our foreign relations may be regarded as tranquil. And though a contagion visited this country this year, and threatened great destruction in its strides among the aborigines, and some four or five of our settlements, yet, excepting New Georgia, the mortality has been less than what was anticipated soon after it made its appearance. And-to day I am happy to be able to express the fact, already known to you, that a spirit of intelligent, manly industry, and of independence, obtains within the Republic to a degree beyond that of any former period in the history of Liberia.

Convened as you are from all parts of the Republic, to commence, under so favourable circumstances, the first session of the incumbency with which you were invested last May by the free and enlightened suffrage of your fellow-citizens, there is much at present, as well as in the prospect, to encourage you in your work of legislation, which your knowledge of the wants of your respective counties, as well as of the general government, will, I doubt not, enable you to do creditably, and advantageously to the country.

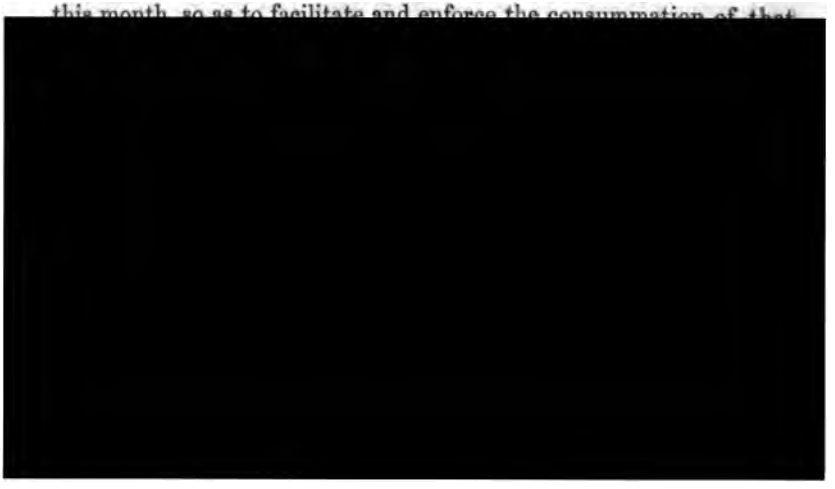
I have striven, so far as was reasonably practicable, to carry out the laws enacted at the last session of the Legislature. Immediately after the close of the session, I directed the boundary lines of the Corporation of the City of Robertsport to be fixed, in conformity to the Act reducing its area, and directed the lands lying contiguously thereto, to be laid off in farm lots for original volunteers and immigrants; which have been done to general satisfaction. I have not been able to make a visit there in person this year, but I am officially, as well as otherwise informed, that the settlement is manifestly improving, and promises not to be second to any of our sea-board settlements very soon, in many respects.

The aborignes of that section of country, though apparently submissive to the laws of the Republic, and their deportment to a very great extent is respectful and loyal, are nevertheless distracted at times more or less by tribal or clannish misunderstandings; and from rumours and threats to engage, and now and then their actual engagement in retaliatory or aggressive acts, we are not seldom disappointed in realizing our cherished desire to preserve undisturbed peace and friendship, with their concomitant blessings among them.

It is my purpose this dry season, provided your session is not

necessarily protracted too long, to have the barricades of the towns in the Cape Mount section of country demolished; and to threaten with severe punishment the first who may attempt a reconstruction. And as, in order to do this—though I do not anticipate any resistance, and it is my purpose to avoid if possible everything like actual hostilities—it may be necessary to employ a small force, I have to request that you pass a resolution of authorization, and that you make sufficient appropriation for that purpose, provided it is your opinion, that the Act, entitled "An Act to maintain peace and enforce order on the highways to the interior," approved January 31, 1859, does not confer the requisite authorization. There are also several barricades in the New Sess Country, which I intend ordering and compelling to be similarly demolished this dry season, for which I have to ask a similar provision.

It is gratifying to me to be able to inform you, that Mr. Superintendent Gibson, of the county of Maryland, succeeded, at my direction, during the late visit of the *Quail* (last month) to that county, in bringing measurably to a satisfactory adjustment the long-standing difficulty of perhaps 10 years, that existed between the Po River and Padee tribes near Garroway. The former who, some 10 years ago, forcibly ejected the latter from the section of land occupied by them by assignment of the then government of the State of Maryland, and who had so obstinately refused to yield it up again to the peaceable and rightful possession of the Padees, now solicit of the Superintendent a grant of land from Government, to which they have promised to peaceably remove, and to yield up the usurped domain, so soon as the solicited assignment is made. At the request of Mr. Superintendent Gibson, I have directed Captain Cooper of the *Quail*, to so arrange as to be present there, about the middle of this month, so as to facilitate and enforce the consummation of that



and that a feeling of identity of interest with us so generally obtained among them. Never before had my visit to our aborigines been so pleasant; nor had I ever before been so much encouraged by so general a progress in assimilation to us. In my visit to the three leeward counties as aforesaid, it was manifest that their interest and progress were greatly retarded for want of immigration. I had hoped, that before this time, there would have been a more general distribution of immigrants to the several counties, so as to afford sufficient numerical force in each county, to safely occupy the rich lands lying more interiorward. This is the great desideratum in the three counties of Grand Bassa, Sinoe, and Maryland. A few good companies of industrious immigrants, settled near or a few miles beyond the head of navigation of the St. John's and Sinoe rivers, and a few good companies to commence and sustain an agricultural settlement on the banks of the fine river Cavally, in Maryland county, would be to Liberia, as a whole, a most judicious and beneficial distribution and assignment.

The finances of the Government would allow a very few of the public enterprises to be carried out, for which appropriation was made at the last session, such as the State Prison up the St. Paul's river, the repairs of and additions to the Court-houses in Bassa, Sinoe, and Maryland counties, &c., toward which nothing of importance has been done; and it will be well to renew the appropriations this year, so that I may be fully authorized to prosecute during the year, such as the state of the finances will justify, especially for the prosecution to completion, of the Representative Hall, commenced about two and a half months ago. The road authorized to be constructed from the St. Paul's river to Careysburg would have been completed before this, but for impediments of an imprudent and offensive nature, of which and their connections, it is earnestly hoped there will not be a recurrence. So soon as Government is relieved a little of the expense of erecting the Representative Hall, the road will be constructed at once.

Commencing with the month of March, the small-pox, for about 5 months, raged somewhat frightfully in this city, and in three or four of the settlements on the St. Paul's river, as well as among the aborigines of this county; and though the mortality—excepting at New Georgia and among the aborigines—has not been as great as was at first anticipated, yet it far exceeded that resulting from the same malady in our communities, at any previous time. The Legislature at the last session having abrogated all the city charters of this Republic, left them without any municipal organization, which has been the cause of much inconvenience and detriment to the people during the year. In the absence of that prompt and efficient action in providing means and adopting measures to which our

citizens ought to have been influenced in their respective municipalities, by the great first law of nature, self-preservation, I found it necessary and consequently assumed the responsibility of appropriating and expending between 300 and 400 dollars from the public treasury, to assist in arresting the malady in its spread in our communities, of which I have to solicit an expression of your approval by an appropriation therefor.

The Attorney-General has given it as his official opinion, that the several city charters, and the subsequent Acts, making grants of money to the city corporations, together with the Acts annulling those charters, have repealed, and consequently nullifies the old statute, which, antecedent to any city incorporations by charter, made provision for, and enjoined, the respective municipal organizations throughout the Republic, by ballot on the first Tuesday of each October.

This will make it necessary, that you either resuscitate the old statute or enact an improved system of municipal operation, with a reduced number of officers, so as at once to secure a more efficient and less expensive organization. Unless the charters you may grant in the future shall provide for and enjoin municipal organizations to operate with more efficiency and less administrative and legislative expense than heretofore under the lately repealed charters, they had better by far operate under the aforesaid old statute.

I have striven to have carried out, as speedily as could be under the circumstances, the law levying taxes upon the taxable citizens of this Republic. The law cannot be fully put in operation until early in 1860. This does not arise from any opposition on the part of the people, but from the great quantity of printing and other labour that was necessary to be done under the provisions of the



am free to confess my firm belief, that by proper management they will promptly pay their taxes with becoming cheerfulness and patriotism.

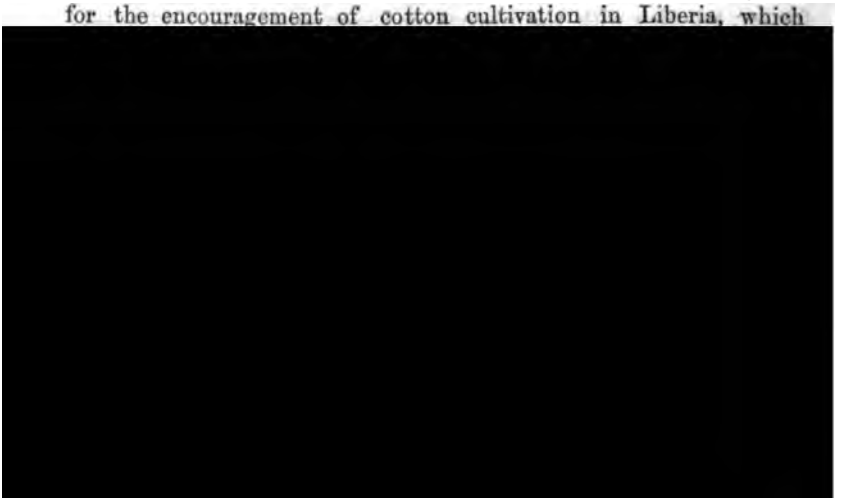
The townships, within the Republic, with very few exceptions, are amply provided with schools. Yet it is my purpose, so soon as the taxation law begins to operate successfully among the aborigines, to establish under the provisions of an existing law at least one common school in each county—the number to be increased in the future as circumstances may justify—for the special, though not exclusive, tuition of native youths. If they be known as Government schools, specially established for their benefit, and the services of efficient teachers are secured, I am sanguine that they will be well attended by youths as well as middle aged persons. And since they will pay their taxes cheerfully, and otherwise contribute to the support of the Government, and to a considerable degree no longer feel an estrangement from, but identified with us, it seems but the reasonable duty of Government, to at least make this commencement for their education and training, which will at once increase our claim upon them, and their attachment and respect for us, as one people, having one common interest.

I shall transmit to you within a day or two, a copy of the communication I received in September from the Trustees of Donations in The United States, respecting, and responsive to the documents which accompanied the Act entitled "An Act Amendatory to the Act entitled 'An Act incorporating Liberia College and the supplement thereto,'" approved March 1st, 1859, which by implication provided that it should be transmitted to the respective Boards of Trustees of Donations and of Liberia College for their reception or rejection. In that document you will find the decision of the former, together with the reasons and arguments upon which it is based, explicitly and respectfully set forth. I shall transmit at the same time a copy of the preamble and resolution, adopted in this city September 19, 1859, by the Board of Trustees of Liberia College, concurring in the aforesaid opinion of the Board of Trustees of Donations; and I shall transmit also, a memorial of much interest from the Board of Trustees of Liberia College, respecting Liberia College, which I received on the 6th instant.

Regarding as I do, the subject to which these important documents relate, as being of vast importance, I shall transmit them at a very early day, with such a special message, as I deem their importance demands.

The agricultural interest of the Republic is making encouraging progress. There has been more produced and exported by the Americo-Liberians during the last year, than in the entire previous history of Liberia, comprising a period of nearly 40 years. And it

is very manifest to all who have visited the plantations this season, that there will be a large increase this year over the last. The counties of Montserrado and Grand Bassa are especially progressing praiseworthily in such pursuits; and I have no doubt that their example will influence other sections of the Republic to similar industrial pursuits: pursuits that constitute the basis of wealth, comfort, and independence, and which, as an auxilliary, are second to none, in promoting the intellectual, moral and religious interest of a nation. I have already directed measures to be adopted for the procurement of several barrels of the best cotton seed this month at Cape Mount and vicinity, to be distributed among the native Chiefs along our coast for cultivation the ensuing season, commencing in March; and I am happy to be able to say that the subject of the cultivation of cotton is very well received by the Chiefs all along our coast; and it is at the earnest request of many of them that the seed will be procured and distributed. It however remains yet to be seen, as to whether cotton cultivation will prove more profit than, or even equally so, to, the making of palm oil, and the cultivation of sugar cane, coffee, rice and other exportable articles. The cultivation of cotton in Liberia to any extent other than for home consumption, will depend on this issue. Should the issue declare in favour of cotton, millions of pounds will be exported from Liberia annually within the next 15 years, otherwise a very few thousand pounds. In this connection, I should state for your information, that the Manchester Cotton Supply Association has kindly tendered through its secretary, to Gerard Ralston, Esq., our Consul-General at London, the sum of 50*l*., of the amount of which I gave information at the last session, as having been appropriated by that Association to be awarded as premiums for 4 years for the encouragement of cotton cultivation in Liberia, which



lific a soil in so delightful a climate as we have in the Republic of Liberia. The increase of commerce through industrial pursuits, will necessarily bring Liberian bottoms correspondingly into requisition, to ply between this and foreign countries. Foreseeing this, I advocated nearly 4 years ago, the policy of entering into Treaties of Friendship, Commerce and Navigation, with as many of the civilized nations of the earth, as would negotiate with us on terms of reciprocity. By reciprocity, I do not mean granting to foreigners equal commercial or other privileges in Liberia with our own citizens, but granting them only such privileges in Liberia, as a sound policy shall dictate upon condition that similar privileges be reciprocated to our citizens by the other Contracting Party; the policy of which I knew would be soon manifest, in the advantages that would accrue to us proportionably to the rapid development of the vast resources of this country.

Several leading nations of Europe have indulged in no hesitancy in treating with us on terms of perfect reciprocity—the privileges reciprocally guaranteed are not, however, in some of the cases as restricted as we have desired.

With the United States of America, where so much of our produce finds, with increasing demand, so ready a market—the nation with which we anticipated to sustain, by conventional law, early and definite commercial relations—has up to date stood aloof from us in that respect. And yet with becoming modesty, which should for a reasonable time be the policy of a young nation in such cases, we have hitherto practically placed her citizens on an equal footing with those of the most favoured nation; which as yet has not been reciprocated us, as is manifest in the case of the Liberian brig *E. N. Roye* on making her first trip to The United States this year under the Liberian flag. This is a subject that should claim your attention at this session. Not that I would advise the speedy adoption and enforcement of retaliatory measures; as a young nation we can gain nothing by manifesting such impetuosity of spirit. Yet, as the Congress of The United States have vested the President with power, in the absence of subsisting Treaties, to treat the subjects and property of such nation on the principle of reciprocity, it may not be amiss for you to consider the propriety of investing the administrative powers of this Republic with similar authority. As regards The United States, I do not doubt for a moment, that all we claim in that respect will be granted, so soon as the subject is properly introduced to the notice of that Government and sufficient time is had for the proper action. If there were no higher motives to influence that Government—an opinion I would not for a moment entertain—that of self-interest—Liberian shipping to The United States being not more than one

twenty-fifth of United States shipping visiting our waters—would bring about very soon that reciprocity, for which this Goverement so respectfully, reasonably and justly asks.

So far as report has reached me from the Treasury Department, I learn that the Act passed last session, entitled "An Act to amend an Act, 'entitled an act of Duties on Imports,'" approved 14th January, 1859, has operated very well in facilitating the liquidation of claims against Government, as well as in meeting the current and contingent expenses.

I regret that I cannot as yet, recommend a reduction in the tariff; of this however and other matters respecting the finances, you will be better prepared to judge and act upon, after you shall have received the full annual report that will be transmitted to you in a few days by the Secretary of the Treasury.

The revenue arising from direct taxation cannot be considerable, since one-fourth per centum only is levied upon real estate; consequently it cannot be relied on as a source of much relief.

The assessment and taxes of the Americo-Liberians in the respective counties stand thus;

County.	Value Real Estate.	Tax.	Poll.	Aggregate.
	Dolls.	*Dolls. cts.*	*Dolls. cts.*	*Dolls. cts.*
Montserrado	357,837	902 80	639 44	1542 24
Grand Bassa	209,970	572 99	68 22	641 21
Maryland	54,562	142 25	101 09	243 34
Sinoe	19,348	50 22	166 30	216 52
Total	641,717	1668 26	975 05	2643 31



	Dolls.	cts.
Disbursements for the year ending 30th September, 1859, were	46,166	43
Disbursements for the year ending 30th September, 1858, were	37,375	95
	8,790	48

Thus showing an excess of disbursements over the preceding year of 8,790 dollars 48 cents which excess I have been informed by the officers of the Treasury Department has been principally applied in liquidation of claims against the Government.

As before intimated, the proper details will be embraced in the report of the Secretary of the Treasury for the fiscal year, which I have directed him to submit to you at an early day of your session.

There were several bills presented for my approval on the previous, as well as the actual day of the close of the last session, to some of which I could not consistently or legally give my approval. I will refer at present only to the one upon which so many misconstructions have been placed, and which has caused some laboured misrepresentations of Executive action in the premises, engendering, especially in the early and middle part of this year, a degree of political agitation in the county of Maryland that was not of the most pleasant nature. The caption of the Bill read thus;

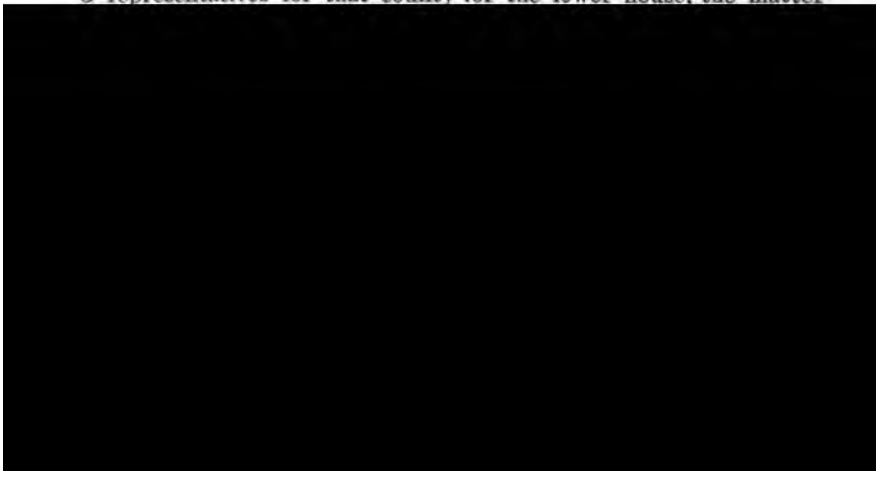
"A resolution to allow Maryland county two additional Representatives until the taking of the census in said county." Then follows the preamble of the resolution, citing the opinion of the Supreme Court, officially given at its last session, in which it is declared as the doctrine of the Constitution of this Republic, "that all counties admitted into this Republic are entitled each to one Representative only, until the census shall have been taken, and it shall appear by such census to be constitutionally entitled to more." Which, as you will readily perceive, is in direct opposition to the caption above cited. And strange to say, the preamble, in continuation, declares in the very next lines, the difficulty amounting to impracticability of taking the census of that county at present, and renders this impracticability, as a sufficient excuse, and authorization for abrogating or suspending a constitutional requisition—as the resolution immediately following the preamble was intended, and purports to do—which constitutional requisition, as explained and set at rest by the Supreme Court, had just been cited and admitted in the foregoing part of the preamble, as genuinely authoritative.

Next follows the resolution authorizing and directing the inhabitants of that county to elect three Representatives at the biennial election that was to be held in May, 1859, and requesting

the Executive to have the census of that county taken as soon thereafter as possible.

As before stated, this preamble and resolution with others, were presented for my approval on the afternoon of the day preceding the one on which the session closed; thus, as you will perceive, not allowing me sufficient time for its thorough examination and formal return with my objections. With my then and present convictions respecting the constitutionality of that resolution, no consideration on earth would have induced me to give my approval to it under the circumstances. The opinion of the Supreme Court on questions of law, whether statute, constitutional, or conventional, is paramount to that emanating from any other source or department in Liberia. The opinion of this court having just been obtained, declaring that unlawful for which the Legislature by a subsequent Act made provision, it is unreasonable to suppose that I, who, upon my induction, solemnly swore to support the Constitution and laws of this Republic in all my official acts, would give my official approval to a law declared by its own preamble, as well as by the supreme competent department, to be in violation of our fundamental law. In my instructions to the superintendent of that county, respecting the subject of 3 Representatives, I directed him to adhere unswervingly to the opinion of the Supreme Court in any directions he might give for the guidance of the people of that county at the then ensuing election.

I exceedingly regret, Gentlemen, that the proper constitutional course, recommended in my Message to the Legislature in April, 1857, failed by one vote in the lower house of being adopted at that session by the necessary two-third vote. Had the Legislature then provided for so amending the Constitution as to have legalized the 3 representatives for that county for the lower house, the matter



The year has been remarkable for the arrival of intelligent and enterprising persons of colour from The United States, and for the indications of desire, so general on the part of the free coloured people of North America to emigrate to Africa, for the purpose of changing their condition, and of assisting to build up in this their fatherland a respectable civilized coloured nationality.

Among the most eminent of these, is Dr. M. R. Delany, who arrived here about the middle of July, *en route* for Yoruba, or the great Niger Valley, as one of a corps of gentlemen designated as the "Niger Valley Exploring Company," with a view of selecting a suitable locality for the formation of a settlement or colony, by emigration of persons of colour from The United States and the Canadas.

The Doctor made a very favourable impression during his stay of two or more months in Liberia. He is regarded as a gentleman admirably adapted, mentally and physically, for the prosecution of so highly interesting a mission.

My having been necessitated to leave on a visit to the leeward in two days after his arrival, and not having returned before he had left this city for Yoruba, I was prevented from holding such interviews, and having such consultation with him, as were mutually desired.

No Liberian of intelligence and patriotism can feel indifferent as to the object, and what will be the result of his mission. Whatever may have been, and is still, the prejudice of the free people of colour of The United States and the Canadas, against the American Colonization Society; however strongly they may have impugned the motives and principles of that Society to which Liberians feel so very grateful, the feeling seems now to be generally obtaining among them that as descendants of Africa we are one people and have a common destiny. And that the feeling is cordially reciprocated by a vast majority of Liberians, is fully demonstrated by the history of Liberia.

If Dr. Delany and many more of the free coloured people of North America should prefer, and decide upon settling in that section of our fatherland as an asylum from oppression, and from the unreasonable withering prejudice of what is styled the dominant race, as well as for the purpose of introducing and inculcating the principles of civilization and Christianity into the very heart of Africa, we should bid them God speed.

Should they even prefer and conclude to operate entirely independently of us—I doubt, however, that this is their policy—I would have no fears that their enterprise would detract very materially from the interest of Liberia. I have never doubted that

the future will prove the assertion correct, that a majority of the free coloured people of North America will emigrate to Liberia and make it their cherished home, especially as our interior offers to them every advantage that (if not more than) Yoruba can possibly afford.

By communications under date of May and July of this year, received from Dr. Pinney, Corresponding Secretary, New York Slavery Colonization Society, I was informed that that Society had contracted with the enterprising firm of Johnson, Turpin, and Dunbar, to have constructed for them a small steamer of about 72 tons burthen, which they contemplate employing upon our coast mainly as a packet.

The Society was the more induced to take interest in the enterprise because of the great facilities it will afford to the Government and people of Liberia, particularly since the British mail packets now touch at Palmas instead of at this port. I have learned since that date that she was launched on the 13th September, and it was contemplated to have her ready for sea by the 1st of November.

In an interview recently had with the members of that firm, they suggested and even expressed a wish, that this Government would grant them a liberal contract for statedly carrying the mails, touching at designated points along our coast. And it has also been suggested to me, that the contract could be made to embrace the privilege of putting a revenue officer on board, and for her to ply statedly the entire extent of our coast. I have also been advised, that anticipating such a contract with this Government, she will likely have a suitable gun mounted forward adapting her for such service.

I deem it unnecessary, Gentlemen, to employ any argument in commendation of the enterprise; or to convince you of the wisdom

a contract with that Company under such restrictions as you may think proper, for carrying the mails, and for the performance of revenue service, &c., through the medium aforesaid, and that you duly make appropriation therefor.

I am happy to be able to state for your information, that our foreign relations are tranquil, and, with very little exception, satisfactory. No communication has been received from the Imperial Government of France since the close of the last Legislative session. Consequently the vexations and difficulties growing out of the *Regina Cœli* case last year, are not yet formally disposed of. I may communicate to you further on this subject before the close of your session.

The schooner *Quail*, "an armed vessel of 123 tons," which is the noble gift of Her Britannic Majesty's Government, of which I gave information in my last annual Message, arrived in this port on the 29th of June, 44 days passage from Plymouth, England. She is a fine little vessel, admirably adapted in every respect for a *guarda costa*. This, Gentlemen, as you are aware, is the second gift of a naval vessel to this Government by the Government of Her Britannic Majesty. I am sure that the Government and people of Liberia, without an exception, are most sincerely grateful to Her Majesty's Government for an act at once so magnanimous and benevolent; and I doubt not that you will, as the representatives of the people, embody in a suitable resolution, an expression of their warmest feelings of gratitude.

The gift is the more appreciated, because made to us at a time when the most strenuous efforts were being made in foreign countries, to alienate Her Majesty's Government from us, and to lessen its confidence in and respect for us, by charging upon the Government and chief men of Liberia, a complicity in the nefarious Slave Trade; than which, if true, nothing would in the estimation of Her Majesty's Government more effectually stamp infamy upon our national character, and thus alienate that magnanimous nation from us, which, under God, seems as yet to be our only practical national co-labourer in the elevation of our race. The gift of the "Quail" at a juncture when every argument had just been brought into requisition, and every effort employed against us by our enemies and maligners, in order to effect our national disgrace and ruin, should, and will always, be regarded as one of the great seals of our moral triumph over our enemies. A seal of our innocency affixed by one of the greatest, wisest, strongest and richest Governments in the world. Much praise is due to Mr. Consul-General Ralston, at London, and Mr. Consul T. W. Fox, jun., Plymouth, for the zeal, attention and taste with which they supervised the repair, outfit and dispatch of the

"Quail." Mr. Ralston, in letters to me this year, wrote in the highest terms of Mr. Consul Fox, who had the immediate superintendence of our every interest in Plymouth during the repair, outfit and dispatch of the vessel. And I am happy to be able to say that Lieutenant Monger has confirmed, since his arrival, all that Mr. Ralston has written in respect to the excellency and efficiency of Mr. Consul Fox.

I have to inform you that ratified copies of the Belgian Treaty, and of the Postal Convention with Her Britannic Majesty's Government, have been exchanged at London by Mr. Consul-General Ralston, which, he has advised me, will be transmitted in the care of the Rev. J. S. Payne, who is expected to arrive at Palmas in this month's mail.

The Government of His Belgian Majesty has within the year established a Consulate in this city, and has been pleased to confer the appointment on the Hon. J. J. Roberts, who has been duly recognized by this Government, and I doubt not that the appointment of this distinguished gentleman will tend to increasingly strengthen the relations of amity that have so happily subsisted hitherto, between the two Governments. During the year, the Rev. John Seys has been by his Government confirmed in the function of The United States' Consulate in this city, and has been respectfully recognized by this Government.

I feel unwilling to close this communication without paying a tribute of respect, however imperfect, to the memory of the late Judge John H. Cheeseman, of the county of Grand Bassa, who, with the Hon. J. T. Neyle, Member elect from that county to the House of Representatives, was drowned in the month of June, while attempting to cross the St. John's river.



CORRESPONDANCE entre la France et la Sardaigne, sur les questions d'Italie, et de la Savoie et Nice.—Février, Mars, 1860.

No. 1.—*Le Ministre des Affaires Etrangères de France au Ministre de France à Turin.*

M. LE BARON, *Paris, le* 24 *Février*, 1860.

J'AI l'honneur de vous exvoyer ci-joint copie de la dépêche que j'ai adressée à l'Ambassadeur de l'Empereur à Londres, et dans laquelle, en lui faisant connaître l'opinion du Gouvernement de Sa Majesté sur la réponse du Cabinet de Vienne à nos dernières ouvertures, je lui indique la marche la meillenre à suivre, selon moi, pour dégager toutes les responsabilités sans priver personne de sa légitime liberté d'action, comme aussi pour sortir d'une situation qui deviendrait bientôt aussi dangereuse qu'elle est confuse, si elle demeurait livrée à elle-même et au hasard des incidents. Le moment est donc venu pour tout le monde de s'expliquer avec une entière franchise, et je veux aujourd'hui vous exposer, sans nulle réticence, la pensée du Gouvernement de l'Empereur, afin que le Cabinet de Turin juge lui-même de la mesure dans laquelle il lui conviendra d'y conformer sa propre conduite en présence de conjonctures aussi graves et, je puis ajouter, aussi solennelles.

Faire en sorte, d'une parte, que les résultats de la guerre ne soient pas compromis en Italie même; de l'autre, obtenir qu'ils soient, dans un avenir plus ou moins prochain, consacrés par l'adhésion officielle de l'Europe, ou, en d'autres termes, conjurer des complications qui livreraient la Péninsule à l'anarchie, et fonder un état de choses durable en le plaçant, le plus tôt possible, sous la sauvegarde du droit international, voilà le double but que nous n'avons cessé de poursuivre et que nous désirerions enfin atteindre avec le concours de la Sardaigne. Le Cabinet de Turin peut s'associer à nous pour l'accomplissement de cette tâche, et le succès en serait vraisemblablement assuré; il est libre également d'adopter une voie différente, mais les intérêts généraux de la France ne permettraient pas au Gouvernement de l'Empereur de l'y suivre, et la loyauté nous commande de le dire. Ce sont ces deux systèmes entre lesquels le Gouvernement de Sa Majesté Sarde aura à faire un choix que je vais successivement passer en revue avec vous.

J'ai la confiance, M. le Baron, que si le Cabinet de Turin se montre résolu à considérer et à faire considérer par tout le monde l'organisation qu'une partie de l'Italie est appellée à se donner comme constituant l'origine d'une période historique, sans terme fixé d'avance à sa durée dans des conditions d'ordre et de paix, la nature des choses elle-même aura raison de bien des obstacles.

Pour que cette organisation ait, à tous les yeux, un tel caractère, il faut qu'elle ne contienne pas en germe les éléments d'un désordre éventuel et probable, soit dans son propre sein, soit dans ses rapports extérieurs. Le Gouvernement de l'Empereur, pour sa part, est profondément convaincu qu'une même et unique cause produirait l'un et l'autre de ces effets, et qu'elle se ferait infailliblement sentir du jour où le Cabinet de Turin entreprendrait une œuvre hors de proportion avec ses moyens réguliers d'influence et d'action. Que la Sardaigne, notamment, étende par trop son territoire, et le travail, d'assimilation auquel elle aura à se livrer rencontrera des obstacles qu'elle ne doit pas assurément se dissimuler. Elle se trouvera, en réalité, moins puissante et surtout moins maîtresse de ses résolutions; elle sera entraînée, elle ne dirigera plus, et l'impulsion qui a fait la force et le succès du Piémont, durant ces dernières années, n'aura plus son point de départ à Turin.

Ce n'est pas au moment, M. le Baron, où les destinées de la Péninsule sont à la veille de se décider pour jamais, que le Gouvernement de l'Empereur hésiterait à s'exprimer avec une liberté qui témoigne assez d'ailleurs de son vif intérêt pour une Cour amie et alliée : disons donc en toute franchise que le sentiment qui a fait surgir, dans certaines parties de l'Italie, l'idée de l'annexion et qui en a fait émettre le vœu, est plutôt une manifestation dirigée contre une grande Puissance qu'un entraînement réfléchi vers la Sardaigne. Ce sentiment, s'il n'était contenu dès le début, ne tarderait pas à se traduire en exigences que la sagesse conseillerait au Cabinet de Turin de combattre. Le pourrait-il longtemps sans qu'on ne lui reprochât violemment de renier et de trahir la cause pour laquelle seule on l'aurait agrandi et armé ? Nul ne le sait, et, ce qui est vraisemblable, c'est qu'il serait exposé à deux éventualités également déplorables, la guerre et la révolution.



3°. Rétablissement du Grande-Duché de Toscane dans son autonomie politique et territoriale.

Dans cet arrangement, l'assimilation bornée à la Lombardie et aux Duchés de Parme et de Modène ne serait plus une œuvre à laquelle la Sardaigne serait tenue de consacrer exclusivement tous ses efforts; le Cabinet de Turin conserverait sa liberté d'action et pourrait l'employer à consolider aussi, pour sa part, la tranquillité en Italie, pendant qu'il organiserait solidement en un royaume compacte les territoires ajoutés aux possessions héréditaires du Roi Victor-Emmanuel.

Le Vicariat s'accorderait avec l'esprit municipal qui est une tradition séculaire dans les Romagnes comme avec l'influence naturelle que doit désirer exercer la Puissance devenue maîtresse de la plus grande partie du bassin du Pô.

Ce mode de transaction aurait ainsi l'avantage de garantir à la Sardaigne la position qui lui est nécessaire au point de vue politique, de satisfaire les Légations au point de vue administratif, et, au point de vue catholique, il constituerait un tempérament qui, nous l'espérons, finirait par apaiser les scrupules et les consciences.

Ce résultat ne saurait être indifférent à la France, puisqu'elle ne pourrait reconnaître en principe un démembrement radical et sans compensation des Etats du Saint-Père; il ne doit pas non plus l'être à la Sardaigne. Nous ne négligerions rien pour que les autres Puissances, éclairées sur l'impossibilité de restaurer complétement l'ancien ordre de choses et de ne pas tenir compte des nécessités présentes, s'efforçassent de faire comprendre avec nous au Pape que cette combinaison franchement acceptée sauvegarderait tous les droits essentiels du Saint-Siége.

Ce que j'ai dit, M. le Baron, de la nécessité de prévenir les dangers auxquels la Sardaigne se trouverait exposée si elle poursuivait d'autres aggrandissements, s'applique plus particulièrement à la Toscane. L'idée de l'annexion du Grand-Duché, c'est-à-dire de l'absorption dans un autre Etat d'un pays doté d'une si belle et si noble histoire et si attaché jusqu'ici à ses traditions, ne peut provenir assurément que d'une aspiration dont il est impossible au Gouvernement de l'Empereur de méconnaître le danger, et qu'il est loin de croire partagée par la masse de la population.

Cette aspiration, il ne faut pas s'y tromper, quelles que soient aujourd'hui, je n'en doute pas, les intentions correctes du Gouvernement Sarde, révèle de la part de ceux qu'elle entraîne une arrière-pensée de guerre contre l'Autriche pour la conquête de la Vénétie, et une arrière-pensée, sinon de la révolution, tout au moins de menace pour la tranquillité des Etats du Saint-Siége et du Royaume des Deux Siciles. L'opinion ne s'y tromperait ni en

Italie, ni ailleurs, et les questions qu'il s'agit d'apaiser ne feraient que se rouvrir avec une violence nouvelle.

Le Gouvernement de l'Empereur, sans se dissimuler les difficultés qui resteraient à résoudre pour amener le triomphe de la solution à laquelle, si le Cabinet de Turin y adhérait, il consacrerait ses efforts les plus énergiques et les plus persévérants, a la confiance que ces difficultés ne seraient pas insurmontables. Certain d'ailleurs d'opérer sur une base de nature à satisfaire complètement la France et la Sardaigne, à pacifier l'Italie pour une longue période, et enfin à ne contrarier d'une façon trop absolue aucun des intérêts que l'Europe a le droit et le devoir de placer moralement sous sa sauvegarde, le Gouvernement de Sa Majesté, non-seulement n'hésiterait pas à s'engager à prendre dans une Conférence ou dans un Congrès la défense d'une semblable combinaison, mais il la proclamerait comme étant inattaquable, à ses yeux, par une intervention étrangère. Dans cette hypothèse donc, la Sardaigne serait sûre de nous avoir avec elle et derrière elle. Vous êtes autorisé à le déclarer formellement à M. le Comte de Cavour.

Ai-je besoin maintenant, M. le Baron, de bien longs détails pour expliquer quelle serait notre attitude si le Cabinet de Turin, libre dans son option, préférait courir tous les hasards que j'ai signalés, en le conjurant de les éviter? L'hypothèse, dans laquelle le Gouvernement de Sa Majesté Sarde n'aurait qu'à compter sur ces seules forces, se développe en quelque sorte d'elle-même, et il me serait pénible de m'y appesantir. Je me borne donc à vous dire, par ordre de l'Empereur, que nous ne consentirions à aucun prix à assumer la responsabilité d'une pareille situation. Quelles que soient ses sympathies pour l'Italie, et notamment pour la Sardaigne, qui a mêlé son sang au notre, Sa Majesté n'hésiterait pas à témoigner de sa ferme et irrévocable résolution de prendre les intérêts de la France



qui se fortifie chaque jour et avec laquelle il lui faut compter. Des traditions historiques qu'il est inutile de rappeler ont accrédité l'idée que la formation d'un Etat plus puissant au pied des Alpes serait défavorable à nos intérêts, et bien que dans la combinaison développée dans cette dépêche l'annexion de tous les Etats de l'Italie Centrale à la Sardaigne ne fût pas complète, il est certain qu'au point de vue des relations extérieures elle équivaudrait en réalité à un résultat analogue.

Les mêmes prévisions, si éloignées qu'elles soient assurément, réclament les mêmes garanties, et la possession de la Savoie et du Comté de Nice, sauf les intérêts de la Suisse, que nous désirons toujours prendre en considération, se présente aussi à nous, dans cette hypothèse, comme une nécessité géographique pour la sûreté de nos frontières.

Vous devrez donc appeler sur ce point l'attention de M. le Comte de Cavour, mais vous lui déclarerez en même temps que nous ne voulons pas contraindre la volonté des populations, et que le Gouvernement de l'Empereur, en outre, ne manquerait pas, lorsque le moment lui paraîtrait venu, de consulter préalablement les Grandes Puissances de l'Europe, afin de prévenir une fausse interprétation des raisons qui dirigeraient sa conduite.

Vous voudrez bien lire cette dépêche à M. le Comte de Cavour et lui en remettre une copie. Agréez, &c.

Le Baron de Talleyrand. THOUVENEL.

(*Annexe.*)—*Le Ministre des Affaires Etrangères de France à l'Ambassadeur de France à Londres.*

M. le Comte, *Paris, le 24 Février*, 1860.

J'ai déjà eu l'honneur de vous transmettre les deux dépêches que M. le Comte de Rechberg a adressées à M. le Prince de Metternich, et qui contiennent la réponse du Cabinet de Vienne aux explications dont l'Empereur m'avait ordonné d'accompagner la communication des propositions émanées du Gouvernement de Sa Majesté Britannique.

Je me suis abstenu de revenir, avec M. l'Ambassadeur d'Autriche, sur des appréciations dont je ne conteste en aucune façon la sincérité mais qui s'écartent trop de notre manière de voir pour qu'il soit utile d'essayer de les rectifier.

J'ai préféré rendre tout de suite hommage aux sentiments de modération qui ont animé M. le Comte de Rechberg quand, voulant bien reproduire les termes mêmes que j'avais employés, il a declaré que, "s'il déplorait la divergence d'opinion de nos deux Cours sur la valeur pratique de la combinaison suggérée par Lord J. Russell, il s'associait cependant à l'espoir dont je m'étais fait l'interprète en établissant que, si la différence des principes pouvait et quelque fois

devait conduire à des appréciations différentes, il n'était pas nécessaire qu'il en résultât, lorsque l'honneur était sauf des deux parts des conflits désastreux et si éloignés des intentions de la France et de l'Autriche."

Bien qu'elle soit jointe à l'assurance que l'Autriche tiendra compte des motifs qui commandent aux deux Puissances de s'abstenir d'une intervention armée dans l'Italie Centrale, cette déclaration, je le reconnais, exclut toute adhésion de la part du Cabinet de Vienne à l'usage que nous pouvons faire de la latitude qu'il nous concède, mais il en ressort, et je l'ai fait observer à M. le Prince de Metternich, qui n'a rien objecté à la justesse de mon raisonnement, que le Gouvernement de l'Empereur a maintenant la faculté d'examiner la quatrième des propositions du Principal Secrétaire d'Etat de Sa Majesté Britannique, il peut notamment, avec une liberté qu'il ne possedait pas au même degré avant l'échange de ces explications, discuter le mode de solution qu'elle implique.

Cette solution se concilie avec les principes qui forment la base de nos institutions, et, comme j'avais l'honneur de vous l'écrire le 30 du mois dernier, nous ne serions pas fondés à en contester l'efficacité dans leur application à d'autres pays. Nous reconnaissons, d'autre part, que le vœu des populations s'est manifesté dans les affaires de l'Italie avec une grande autorité, et c'est ce vœu que nous avons nous-mêmes pris en considération quand nous avons loyalement fait connaître à l'Autriche les difficultés, insurmontables à nos yeux, que rencontrait l'exécution littérale des stipulations de Villafranca et de Zurich.

Quel est, dans cet état de choses, le but, ou plutôt quel serait le résultat de la proposition du Cabinet de Londres ? De provoquer une nouvelle expression de ce vœu avec l'assentiment de la France et de l'Angleterre, de telle manière que cette manifestation recevrait

[redacted]

à mettre en suspicion la valeur et la sincérité des manifestations précédentes.

Les considérations que je viens d'indiquer nous placent dans la nécessité de peser avec soin les conséquences auxquelles peut nous conduire notre acquiescement sans réserve à la proposition de l'Angleterre. A nos yeux, un certain mode peut seul avoir la propriété de substituer un principe nouveau de stabilité et d'ordre à un autre principe consacré par le temps et le respect des peuples; mais si nous avons le droit et le devoir de revendiquer pour nous mêmes le libre exercice de nos doctrines, nous ne nous reconnaissons pas le droit de les imposer à d'autres, et nous tenons au contraire pour un devoir non moins impérieux de leur laisser la liberté comme la responsabilité de leurs propres opinions et de leurs actes.

J'ajouterai, M. le Comte, que l'entente que nous avons le vif désir de maintenir entre nous et le Gouvernement de Sa Majesté Britannique ne saurait cependant nous empêcher de constater que les positions respectives ne sont pas exactement les mêmes. En effet, le cours des événements, l'an dernier, nous a mis dans la nécessité de soutenir le poids d'une guerre. L'Angleterre a pu, au contraire, sans nuire à ses intérêts, demeurer dans une situation expectante. A Dieu ne plaise que je prétende que l'Angleterre doive se montrer indifférente aux résultats heureux ou malheureux de l'expérience à laquelle elle nous invite à nous associer! mais je ne dirai rien que de conforme à la nature des choses en admettant que si cette expérience venait, soit à échouer en Italie même, soit à provoquer une crise Européenne, l'Angleterre serait toujours maîtresse de se renfermer dans un rôle de simple observation. Cette tâche, assurément, serait moins facile à la France, et nous avons le droit, sans vouloir nous opposer aux vœux de l'Italie Centrale, ni encore moins dicter une solution, en ne consultant que nos convenances, nous avons le droit, dis-je, de nous préoccuper, beaucoup plus que l'Angleterre n'a besoin de le faire, des éléments d'ordre intérieur et de paix extérieure contenus dans les diverses solutions à donner au grand problème qui tient aujourd'hui les esprits en suspens.

Le Gouvernement de l'Empereur, M. le Comte, au nom des services qu'il a rendus comme au nom d'intérêts qui ne lui sont pas exclusivement personnels, croit avoir qualité pour faire entendre quelques Conseils à la Sardaigne, et sa loyauté lui commande de préciser en quelque sorte la mesure de l'appui qu'il lui serait possible de prêter à telle ou telle combinaison. Les illusions, en matière aussi grave, seraient dangereuses pour l'Italie et compromettantes pour la France; les dissiper, ce n'est donc pas vouloir contraindre la liberté de l'Italie, c'est simplement revendiquer celle de la France et dégager préalablement son action, en prévision

d'éventualités dans lesquelles ses intérêts lui prescriraient impérieusement de se tenir à l'écart de complications qu'elle aurait vainement voulu épargner à une nation amie.

Le Gouvernement de l'Empereur juge donc nécessaire de s'expliquer en toute franchise avec le Cabinet de Turin, d'appeler sa plus sérieuse attention sur les conséquences de la conduite qu'il sera, d'ailleurs, le maître d'adopter, et de lui laisser, en quelque sorte, le choix entre deux systèmes. C'est dans ce but que j'adresse à M. le Baron de Talleyrand la dépêche dont vous trouverez ci-joint la copie, et que je vous autorise à lire à Lord J. Russell en même temps que celle-ci. Agréez, &c.

Le Comte de Persigny. THOUVENEL.

No. 2.—Le Ministre des Affaires Etrangères de Sardaigne au Ministre du Roi à Paris.

M. LE CHEVALIER, *Turin, le 29 Février*, 1860.

LE Baron de Talleyrand est venu hier me donner lecture d'une dépêche par laquelle Son Excellence le Ministre des Affaires Etrangères de Sa Majesté l'Empereur des Français lui transmet copie d'un office qu'il a adressé au Comte de Persigny, et lui indique la marche qu'il juge nécessaire de suivre pour sortir d'une situation d'autant plus dangereuse qu'elle resterait plus confuse. Dans la dépêche que le Baron de Talleyrand vient de me lire, M. Thouvenel, croyant avec raison que le moment est venu pour tout le monde de s'expliquer clairement, expose sans réticence la pensée du Gouvernement Français, pour que le Cabinet de Turin juge par lui-même de la mesure dans laquelle il lui conviendrait d'y conformer sa propre conduite.

Ne pas compromettre les résultats de la guerre, et faire en sorte qu'ils soient reconnus par l'Europe en les plaçant sous la sanction



traînée par l'ardeur irréfléchie de ses nouvelles populations, elle ne pourrait plus diriger sa politique, son centre d'action même se trouverait changé. M. Thouvenel pense que c'est surtout l'aversion pour l'Autriche qui a poussé vers la Sardaigne les populations de l'Italie Centrale, et il croit par conséquent que l'annexion de toutes ces provinces placerait le Gouvernement du Roi dans la nécessité de choisir entre la guerre et la révolution.

D'après ces considérations, le Gouvernement Français propose :

1° D'accomplir immédiatement l'annexion des Duchés de Parme et de Modène.

2° De donner à la Sardaigne l'administration temporelle des Romagnes sous la forme d'un Vicariat qui, d'après M. de Thouvenel, donnerait satisfaction au sentiment catholique et municipal des populations, tout en respectant la haute souveraineté du Saint-Siége.

3° De rétablir l'autonomie de la Toscane, dont la population (tel est du moins l'avis de M. Thouvenel) ne partage nullement le désir d'absorber dans un royaume plus vaste sa belle et glorieuse individualité historique.

Après avoir exposé cette combinaison, M. Thouvenel ajoute que la France s'engagerait à l'appuyer dans un congrès ou dans une conférence, qu'elle empêcherait toute intervention étrangère par laquelle on prétendrait mettre obstacle à l'exécution de ce plan ; enfin que la Sardaigne, en adhérant à ces propositions, aurait la France derrière elle et avec elle.

Dans l'hypothèse contraire, le Gouvernement Français prendrait son intérêt pour guide unique de ses résolutions ultérieures ; il revendiquerait l'indépendance de sa politique pour dégager sa responsabilité et se mettre à l'abri de toute complication.

En me réservant de traiter dans une autre dépêche les arguments qui n'ont pas trait à l'Italie Centrale, je m'empresse de vous faire connaître, M. le Chevalier, la réponse que le Gouvernement du Roi doit faire à ces propositions, qui ont été de sa part l'objet d'un examen approfondi et de discussions consciencieuses.

Provenant d'un Gouvernement qui a tant de titres à la reconnaissance de la Sardaigne, et dont la sollicitude bienveillante pour le sort de l'Italie ne saurait être mise en doute, le Gouvernement du Roi était naturellement disposé à leur faire l'accueil le plus favorable.

Malgré ces dispositions, le Cabinet que j'ai l'honneur de présider a dû se convaincre qu'elles doivent rencontrer dans leur exécution de graves difficultés, qu'il n'est pas au pouvoir du Gouvernement du Roi de vaincre ; et cela par suite des considérations suivantes dont, je l'espère, M. Thouvenel voudra bien apprécier la valeur.

Je n'entends pas discuter à fond le mérite des propositions qui

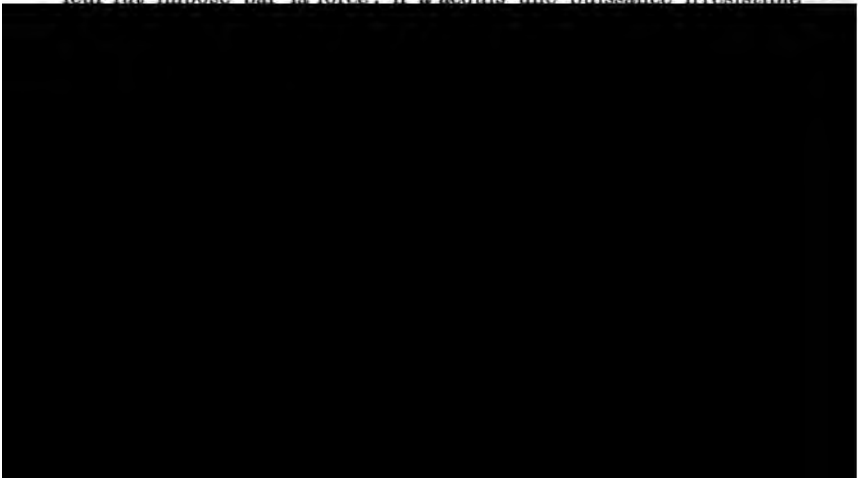
nous ont été communiquées. Quelques objections qu'elles soulèvent et dont j'indiquerai plus loin une partie, il est certain qu'elles contiennent une solution bien plus avantageuse pour l'Italie que celle qu'il était permis d'espérer le lendemain de la paix de Villafranca.

La destruction complète de l'influence Autrichienne sur la rive droite du Po, l'exclusion de toute pensée de restauration, enfin, un gouvernement laïque et libéral assuré aux Romagnes, sont des bienfaits immenses, dont on ne saurait méconnaître la portée.

Aussi est-il probable que si cette solution eût été proposée au mois d'Août, elle eût été accueillie, sinon avec enthousiasme, du moins sans beaucoup de répugnance par l'Italie Centrale.

Il ne saurait en être de même à présent. La Sardaigne peut encore, par déférence pour la France, les accepter en ce qui la concerne, dans le but de faire cesser un état précaire si rempli de dangers et si contraire à ses intérêts. Mais il n'est pas douteux que ces propositions rencontreront dans la Toscane et dans la Romagne les difficultés les plus graves, que le Gouvernement du Roi ne peut se flatter de surmonter. Les populations de ces contrées sont régies depuis plus de 8 mois par un Gouvernement national qui a su concilier le patriotisme le plus ardent avec un remarquable esprit de modération et de prudence.

Cette conduite, à laquelle M. Thouvenel s'est plu à rendre justice dans sa dépêche au Marquis de Moustier, a valu aux populations de l'Italie Centrale les éloges de l'Europe entière. Il en est résulté que le sentiment du droit de disposer actuellement de leur sort s'est fortement développé chez elles. Ce sentiment s'est fortifié par suite des assurances, formellement répétées par le Gouvernement de l'Empereur, qu'il ne permettrait jamais qu'aucun régime particulier leur fût imposé par la force; il a acquis une puissance irrésistible



engagés à le faire par la quatrième proposition Anglaise, de consulter la nation de manière à obtenir une manifestation de ses vœux aussi complète et aussi éclatante que possible. A cet effet, ils adopteront peut-être le moyen du suffrage universel et direct comme celui dont le résultat peut être le moins contesté.

La communication dont je viens de parler sera faite aujourd'hui même, soit à M. Farini, soit au Baron Ricasoli. Si le Gouvernement Français croit nécessaire de devoir la compléter par des arguments ou des considérations qui s'appliquent particulièrement soit à la Toscane, soit à la Romagne, je m'empresserai de les leur transmettre loyalement, en les engageant à leur donner tel degré de publicité que M. Thouvenel croira convenable.

Toutefois, je crois devoir faire remarquer que si l'on présentait la proposition relative à la Romagne sous la forme qu'elle revêt dans la dépêche de M. Thouvenel, on s'exposerait à la voir rejeter presqu'à l'unanimité par les Romagnols. De son côté, le Saint-Père lui ferait probablement un accueil moins favorable encore que s'il s'agissait de la séparation absolue de ces provinces.

L'idée d'un Vicariat impliquant celle d'une ingérence directe de la Cour de Rome dans l'administration intérieure, rencontrerait dans les populations de ces contrées une résistance absolue. Il serait impossible de la leur faire accepter autrement que par la force. Soumise à l'épreuve des suffrages populaires, cette proposition n'en réunirait presque aucun. On ne saurait avoir à cet égard aucune espèce de doute. Il est d'ailleurs évident que le Saint-Père ne saurait accepter cette combinaison, bien qu'elle soit inspirée par le désir de sauvegarder ses droits et de ne pas amoindrir la haute position qu'il occupe en Italie.

En effet, ce qui a empêché jusqu'ici Sa Sainteté de consentir, je ne dis pas à des mesures devant nécessairement restreindre sa puissance souveraine, mais même aux réformes qui lui étaient conseillées par toute l'Europe, c'est la crainte d'encourir la responsabilité d'actes qui, tout en étant conformes aux principes en vigueur dans la plupart des pays civilisés, pourraient entraîner à quelques conséquences contraires aux préceptes de la morale religieuse dont le souverain Pontife se considère, à juste titre, le suprême gardien.

Un fait bien récent vient à l'appui de cette assertion. Lorsque la France, désirant mettre un terme à l'occupation de Rome, invitait le Saint-Père à former, à l'instar des autres puissances Européennes, une armée nationale, on lui répondit que le Saint-Père ne saurait admettre le recrutement parce qu'il répugnait à sa concience d'assujettir à un célibat même temporaire un grand nombre de ses sujets.

L'institution d'un Vicarrit ne triompherait pas de ces scrupules. Le Saint-Père, se regardant comme indirectement responsable des

actes de son Vicaire, ne voudrait certainement pas lui laisser la liberté d'action nécessaire pour que la combinaison proposée eût un résultat utile.

Je pense que la France, se proposant d'assurer au Saint-Père certains avantages et de lui conserver la haute souveraineté politique, son but serait atteint avec moins de difficulté si l'annexion se faisait sous la réserve expresse de la part du Roi de Sardaigne de négocier avec le Saint-Siége et d'obtenir son consentement au nouvel état de choses, moyennnant certaines obligations que Sa Majesté contracterait envers lui. Ces obligations consisteraient dans la reconnaissance de la haute souveraineté du Pape, dans l'engagement de concourir, même par les armes, au maintien de son indépendance, et de contribuer, dans certaine mesure, aux dépenses de la Cour de Rome.

D'après ces considérations, qui ne peuvent échapper à M. Farini, il est possible que pour obtenir une manifestation plus sincère des vœux des populations, le Gouvernement de la Romagne ne fasse pas mention expresse du Vicariat dans la proposition qu'il va soumettre au suffrage universel. Si, toutefois, M. Thouvenel en jugeait autrement, je pense que M. Farini ne ferait pas difficulté à poser la formule du vote à émettre conformément à la dépêche que M. de Talleyrand m'a communiquée.

La proposition relative à la Toscane ne pouvant donner lieu à aucune équivoque, je m'abstiens de toute observation sur la forme sous laquelle elle devra être présentée au vote populaire.

Quelles que soient les réponses que les Etats de l'Italie centrale émettront, le Gouvernement du Roi a d'avance déclaré les accepter sans réserve. Si la Toscane se prononce pour la conservation de son autonomie, moyennant la formation d'un Etat séparé, la Sardaigne non seulement ne s'opposera pas à la réalisation de ces vœux, mais elle contribuera franchement à surmonter les obstacles

Les déclarations formelles contenues dans la dépêche de M. Thouvenel au baron de Talleyrand rendent, il le sait, bien plus graves les dangers que cette mesure peut entraîner à sa suite. S'il ne recule pas devant eux, c'est qu'il est convaincu qu'en rejetant la demande d'annexion de la Toscane, non seulement le Cabinet, mais le Roi Victor-Emmanuel lui-même, perdraient tout prestige, toute autorité morale en Italie, et qu'ils se trouveraient réduits probablement à n'avoir d'autre moyen de gouverner que la force. Plutôt que de compromettre de cette manière la grande œuvre de régénération pour laquelle la France a fait tant de généreux sacrifices, l'honneur, et même l'intérêt bien entendu de notre pays, conseillent au Roi et à son Gouvernement de s'exposer aux chances les plus périlleuses.

J'ose me flatter que M. Thouvenel appréciera les motifs qui nous engagent à suivre la ligne de conduite que je viens de tracer, et que, lors même qu'il persisterait à croire que nous faisons fausse route, il voudra bien rendre justice aux sentiments qui nous empêchent de nous conformer entièrement aux conseils qui nous viennent d'un Gouvernement pour lequel nous sommes habitués à avoir autant de sympathie que de déférence.

Après avoir exposé avec une entière franchise les intentions du Gouvernement du Roi, je pense devoir, avant de terminer cette dépêche, ajouter quelques réflexions sur la proposition de rendre à la Toscane son autonomie, à laquelle le Ministre des Affaires Etrangères de l'Empereur paraît attacher une grande importance.

M. Thouvenel craint qu'une trop grande extension de la Sardaigne rende la tâche du Gouvernement du Roi plus difficile, et l'expose à être entraîné par les partis extrêmes, qui ne trouveraient plus un contrepoids suffisant dans les traditions monarchiques et les instincts conservateurs des vielles provinces du Piémont. J'avoue que je ne saurais partager celle crainte.

Si l'annexion de l'Italie centrale a lieu, la Toscane sera probablement la province qui fortifiera le plus l'élément conservateur et libéral.

La constitution de la propriété, les mœurs des habitants, les traditions historiques, tout concourt à donner dans cette contrée une supériorité marquée aux opinions raisonnables, aux partis modérés.

Les événements de 1848, et plus encore ceux qui se succèdent depuis un an, prouvent que la grande majorité des Toscans sait allier à un vif patriotisme un sentiment d'ordre très prononcé ; et, par conséquent, s'ils s'unissent à nous, ils fortifieront notre édifice constitutionnel au lieu de l'affaiblir.

L'annexion de la Toscane aurait-elle de plus graves inconvénients, présenterait-elle plus de dangers par rapport à la politique

extérieure? Je n'oserais le contester, si l'on avait à choisir entre l'annexion ou la restauration de la dynastie de Lorraine. Certes, si cette dernière solution était réalisée, l'Autriche l'accepterait sans difficulté, et elle recevrait immédiatement la sanction Européenne.

Mais un Prince librement élu rencontrera les mêmes répugnances à Vienne, et excitera plus d'objections à Saint-Pétersbourg et à Berlin que le Roi Victor-Emmanuel lui-même réunissant la Toscane à ses Etats.

Si donc on imposait aux Toscans un Prince malgré eux, on créerait d'immenses difficultés intérieures, sans aucune compensation sous le rapport de la politique extérieure.

A mon avis, le rétablissement d'un Etat autonome en Toscane ne présente donc aucun avantage, mais il peut amener de graves complications et de sérieux inconvénients.

Un Trône entouré d'institutions libérales, qui n'aurait pour appui ni le principe de la légitimité, ni celui du vœu populaire, serait sans racines et sans appui.

Le parti ultra-conservateur, et cette fraction du parti clérical qui confond les intérêts de la religion avec ceux du droit divin, le combattraient à outrance. Il en serait de même du parti national, qui, certes n'abandonne pas la pensée de l'annexion. Qui le défendrait? Les partisans des idées municipales. Mais ceux-ci sont peu nombreux et ils diminuent chaque jour, car les idées suivent partout, et notamment en Italie, un courant contraire aux instincts municipaux.

Sans amis, en présence d'adversaires décidés, le nouveau Souverain, quel que soit d'ailleurs son mérite personnel, serait bientôt, réduit à une impuissance absolue. On objectera peut-être ce que j'ai dit plus haut des éléments conservateurs que possède la



le caractère du mouvement national, serait pour l'Italie la source de maux incalculables.

Je désire vivement que M. Thouvenel veuille bien prendre en considération ces observations sur le projet de constituer en Toscane un royaume séparé. Quel que soit le jugement qu'il portera sur elles, les raisons que j'ai exposées lui prouveront au moins que nous ne pouvons pas nous faire les défenseurs de la solution qu'il propose.

Veuillez, M. le Chevalier, donner lecture et laisser copie de cette dépêche à son Excellence le Ministre des Affaires Etrangères.

Le Chevalier Nigra. C. CAVOUR.

No. 3.—Le Ministre des Affaires Etrangères de Sardaigne au Ministre du Roi à Paris.

M. LE CHEVALIER, *Turin, le 2 Mars*, 1860.

DANS sa dépêche du 24 Février, M. Thouvenel charge M. de Talleyrand d'appeler l'attention du Gouvernement du Roi sur la question de la Savoie et de Nice. Il considère que, d'après des traditions historiques fort répandues, la formation d'un royaume puissant au pied des Alpes serait défavorable aux intérêts de la France, et présenterait pour elle un véritable danger, si ses frontières n'étaient étendues et fortifiées dans cette direction.

M. Thouvenel s'empresse toutefois d'ajouter qu'il n'est nullement dans l'intention du Gouvernement de l'Empereur de réclamer des changements territoriaux qui seraient contraires aux vœux des populations, et de le faire sans tenir compte des intérêts de la Suisse, et sans avoir consulté les grandes Puissances de l'Europe.

Je ne m'arrêterai pas à examiner la valeur des traditions historiques auxquelles M. Thouvenel fait allusion. Je suis loin de croire que l'agrandissement de la Sardaigne puisse jamais constituer un danger pour la France, à laquelle les derniers événements nous rattachent par les liens de la reconnaissance et de l'amitié. Cependant, nous avons trop le sentiment de ce que l'Italie doit à l'Empereur pour ne pas accorder la plus sérieuse attention à une demande qui repose sur le principe du respect des vœux des populations.

Le Gouvernement de Sa Majesté ne consentirait jamais, même en vue des plus grands avantages, à céder ou à échanger aucune des parties du territoire qui forme depuis tant de siècles l'apanage glorieux de la Maison de Savoie. Mais le Gouvernement du Roi ne pourrait s'empêcher de prendre en considération les changements que les événements qui se sont succédés en Italie auraient apportés dans la situation des populations de la Savoie et de Nice.

Au moment où nous réclamons hautement pour les habitants de

l'Italie centrale le droit de disposer de leur sort, nous ne saurions, sans encourir le reproche d'inconséquence et d'injustice, refuser aux sujets du Roi qui habitent au-delà des Alpes le droit de manifester librement leur volonté.

Quels que vifs que seraient les regrets que nous éprouverions, si les provinces qui ont été le berceau glorieux de la monarchie pouvaient se décider à réclamer leur séparation d'avec le reste des Etats du Roi pour s'associer à d'autres destinées, nous ne nous refuserions pas à reconnaître la valeur de cette manifestation.

Les déclarations de M. Thouvenel, relativement aux grandes Puissances et à la Suisse, sont de nature à prévenir toute fausse interprétation, et à aplanir bien des difficultés. Ces déclarations, qui sont inspirées par un sentiment si élevé d'équité et de justice, ne nous laissent d'ailleurs aucun doute que, dans toute hypothèse, le soin de laisser à la Sardaigne aussi bien qu'à la France une ligne de frontière convenable présiderait à ces négociations.

Veuillez, M. le Chevalier, donner lecture et laisser copie de cette dépêche à son Excellence le Ministre des Affaires Etrangères, et agréer, &c.

Le Chevalier Nigra. C. CAVOUR.

MEMORANDUM du Gouvernement de Sa Majesté le Roi de Sardaigne sur les motifs de l'entrée des Troupes Sardes dans l'Ombrie et les Marches.—Turin, le 12 Septembre, 1860.

La paix de Villafranca, en assurant aux Italiens le droit de dis-



l'Autriche et elle n'a produit aucun changement dans l'Italie méridionale, et dans les provinces restées sous la domination temporelle du Saint Siège.

Nous n'avons pas l'intention de traiter ici la question de la Vénétie. Il nous suffira de rappeler que, tant que cette question ne sera pas résolue, l'Europe ne pourra pas jouir d'une paix solide et sincère. Il restera toujours en Italie une cause puissante de troubles et de révolution qui, en dépit des efforts des Gouvernements, menacera incessamment de faire éclater au centre du continent l'insurrection et la guerre. Mais cette solution il faut savoir l'attendre du temps. Quelle que soit la sympathie qu'inspire à bon droit le sort chaque jour plus malheureux des Vénitiens, l'Europe est si préoccupée des conséquences incalculables d'une guerre, elle a un si vif désir, un besoin si irrésistible de la paix, qu'il serait peu sage de ne pas respecter sa volonté. Il n'en est pas de même pour les questions relatives au centre et au midi de la Péninsule.

Attaché à un système traditionnel de politique, qui n'a pas été moins fatal à sa famille qu'à son peuple, le jeune Roi de Naples s'est mis, dès son avènement au trône, en opposition flagrante avec les sentimens nationaux des Italiens aussi bien qu'avec les principes qui gouvernent les pays civilisés. Sourd aux Conseils de la France et de l'Angleterre, refusant même de suivre les avis qui lui venaient d'un Gouvernement dont il ne pouvait mettre en doute ni l'amitié constante et sincère ni l'attachement au principe de l'autorité, il a repoussé pendant une année tous les efforts du Roi de Sardaigne pour l'amener à un système de politique plus conforme aux sentimens qui dominent le peuple Italien.

Ce que la justice et la raison n'ont pu obtenir, une révolution vient de l'accomplir. Révolution prodigieuse, qui a rempli l'Europe d'étonnement par la manière presque providentielle dont elle s'est opérée, et l'a saisie d'admiration pour le guerrier illustre dont les glorieux exploits rappellent ce que la poésie et l'histoire racontent de plus surprenant.

La transformation qui s'est faite dans le Royaume de Naples pour s'être opérée par des moyens moins pacifiques et réguliers que celle de l'Italie Centrale, n'en est pas moins légitime: ses conséquences n'en sont pas moins favorables aux véritables intérêts de l'ordre et à la consolidation de l'équilibre Européen.

Une fois que la Sicile et Naples feront partie intégrante de la grande famille italienne, les ennemis des trônes n'auront plus aucun puissant argument à faire valoir contre les principes monarchiques; les passions révolutionnaires ne trouveront plus un théâtre où les entreprises les plus insensées avaient des chances de réussir ou du moins d'exciter la sympathie de tous les hommes généreux.

On serait donc autorisé à penser que l'Italie peut rentrer enfin

dans une phase pacifique de nature à dissiper les préoccupations Européennes, si les deux grandes régions du nord et du midi de la Péninsule n'étaient séparées par des provinces qui se trouvent dans un état déplorable.

Le Gouvernement Romain s'étant refusé à s'associer en quoi que ce soit au grand mouvement national, ayant au contraire continué à le combattre avec le plus regrettable acharnement, s'est mis depuis longtemps en lutte formelle avec les populations qui n'ont pas réussi à se soustraire à sa domination.

Pour les contenir, pour les empêcher de manifester les sentimens nationaux dont elles sont animées, il a fait usage du pouvoir spirituel que la Providence lui a confié dans un but bien autrement grand que celui assigné au Gouvernement politique.

En présentant aux populations Catholiques la situation de l'Italie sous des couleurs sombres et fausses, en faisant un appel passionné au sentiment ou pour mieux dire au fanatisme qui exerce encore tant d'empire dans certaines classes peu éclairées de la societé, il est parvenu à réunir de l'argent et des hommes de tous les coins de l'Europe et à former une armée composée presqu'exclusivement d'individus étrangers non seulement aux Etats Romains, mais à toute l'Italie.

Il était réservé aux Etats Romains de présenter dans notre siècle l'étrange et douloureux spectacle d'un Gouvernement réduit à maintenir son autorité sur ses sujets au moyen de mercenaires étrangers aveuglés par le fanatisme, ou animés par l'appât de promesses qui ne sauraient être réalisées qu'en jetant dans la détresse des populations toutes entières.

De tels faits provoquent au plus haut degré l'indignation des Italiens qui ont conquis la liberté et l'indépendance. Pleins de sympathie pour leurs frères de l'Ombrie et des Marches, ils manifestent de tout côté le désir de concourir à faire cesser un état de choses qui est un outrage aux principes de justice et d'humanité et qui froisse vivement le sentiment national.

Bien qu'il partageât cette douloureuse émotion le Gouvernement du Roi a cru devoir jusqu'à présent empêcher et prévenir toute tentative désordonnée pour délivrer les peuples de l'Ombrie et des Marches du joug qui les opprime. Mais il ne saurait se dissimuler que l'irritation croissante des populations ne pourrait être contenue plus longtemps sans avoir recours à la force et à des mesures violentes. D'ailleurs la révolution ayant triomphé à Naples, pourrait-on l'arrêter à la frontière des Etats Romains où l'appellent des abus non moins graves que ceux qui ont entrainé irrésistiblement en Sicile les volontaires de la Haute Italie ?

Aux cris des insurgés des Marches et de l'Ombrie l'Italie entière s'est émue. Aucune force ne saurait empêcher que du midi et du

nord de la Péninsule des milliers d'Italiens accoururent à l'aide de leurs frères, menacés de désastres semblables à ceux de Pérugia.

S'il demeurait impassible au milieu de cet entraînement universel, le Gouvernement du Roi se mettrait en opposition directe avec la nation. L'effervescence généreuse que les évènemens de Naples et de la Sicile ont produit dans les multitudes dégénererait aussitot dans l'anarchie et le désordre.

Il serait alors possible et même probable que le mouvement régulier qui s'est opéré jusqu'ici prît tout à coup les caractères de la violence et de la passion. Quelle que soit la puissance des idées d'ordre sur les Italiens, il est des provocations aux quelles les peuples les plus civilisés ne sauraient résister. Certes ils seraient plus à plaindre qu'à blâmer si, pour la première fois, ils se laissaient entrainer à des réactions violentes, qui amèneraient les plus funestes conséquences. L'histoire nous apprend que des peuples qui sont aujourd'hui à la tête de la civilisation ont commis sous l'empire de causes moins graves les plus déplorables excés.

S'il exposait la Péninsule à de pareils dangers, le Gouvernement du Roi serait coupable envers l'Italie; il ne le serait pas moins vis-à-vis de l'Europe.

Il manquerait à ses devoirs envers les Italiens qui ont toujours écouté les conseils de modération qu'il leur a donnés, et qui lui ont confié la haute mission de diriger le mouvement national.

Il manquerait à ses devoirs vis-à vis de l'Europe, car il a contracté envers elle l'engagement moral de ne pas laisser le mouvement Italien se perdre dans l'anarchie et le désordre.

C'est pour remplir ce double devoir que le Gouvernement du Roi, dès que les populations insurgées de l'Ombrie et des Marches lui ont envoyé des députations pour invoquer sa protection, s'est empressé de la leur accorder. En même temps il a expédié à Rome un Agent diplomatique pour demander au Gouvernement Pontifical l'éloignement des Légions étrangères dont il ne pourrait se servir pour comprimer les manifestations des Provinces qui touchent à nos frontières sans nous forcer à intervenir en leur faveur.

Sur le refus de la Cour de Rome d'obtempérer à cette demande, le Roi a donné l'ordre à ses troupes d'entrer dans l'Ombrie et dans les Marches, avec la mission d'y rétablir l'ordre et de laisser libre champ aux populations de manifester leurs sentiments.

Les troupes Royales doivent respecter scrupuleusement Rome et le territoire qui l'entoure. Elles concourraient, si jamais il en était besoin, à préserver la résidence du Saint-Père de toute attaque, et de toute menace: car le Gouvernement du Roi saura concilier toujours les grands intérêts de l'Italie avec le respect dû au Chef Auguste de la religion à laquelle le pays est sincèrement attaché.

En agissant ainsi il a la conviction de ne pas froisser les senti-

ments des catholiques éclairés qui ne confondent pas le pouvoir temporel, dont la Cour de Rome a été investie pendant une période de son histoire, avec le pouvoir spirituel qui est la base éternelle et inébranlable de son autorité religieuse.

Mais nos espérances vont plus loin encore. Nous avons la confiance que le spectacle de l'unanimité des sentiments patriotiques qui éclatent aujourd'hui dans toute l'Italie, rappellera au Souverain Pontife qu'il a été, il y a quelques années, le sublime inspirateur de ce grand mouvement national. Le voile que des conseillers animés par des intérêts mondains avaient mis sur ses yeux, tombera, et alors reconnaissant que la regénération de l'Italie est dans les desseins de la Providence, il redeviendra le père des Italiens, comme il n'a jamais cessé d'être le père auguste et vénérable de tous les fidèles.

Turin, ce 12 Septembre, 1860.

CONVENTION ADDITIONNELLE au Traité de Commerce et de Navigation du 29 *Avril,* 1851,* *entre la Sardaigne et les Villes Anséatiques.—Berlin, le* 20 *Septembre,* 1860.

[Ratifications echangées à Berlin, le 12 Novembre, 1860.]

Sa Majesté le Roi de Sardaigne d'une part, et le Sénat de la Ville libre et Anséatique de Lubeck, le Sénat de la Ville libre et Anséatique de Brême, et le Sénat de la Ville libre et Anséatique de Hambourg (chacun de ces Etats pour soi séparément), d'autre part, désirant étendre et favoriser de plus en plus les relations commerciales entre leurs Etats respectifs, sont convenus d'ajouter au



2. En cercles, de 22 degrés et au dessous, à 5 francs et 50 centimes par hectolitre ;

3. En bouteilles, à 10 centimes par bouteille qui ne dépasse pas le litre.

En même temps le Gouvernement Sarde garantit que dans aucun cas, les, spiritueux et eaux-de-vie fabriqués dans les Villes Anséatiques ne seront assujettis, par les Administrations Communales, à des droits d'octroi ou de consommation autres ou plus élevés que ceux auxquels seront assujettis les spiritueux et eaux-de-vie du pays.

III. Les sujets des deux Hautes Parties Contractantes seront réciproquement autorisés à se livrer à la navigation et au commerce de côte ou de cabotage.

IV. La présente Convention sera mise en vigueur le premier Janvier, 1861 ; elle aura la force et la valeur du Traité du 29 Avril, 1851, dont elle formera l'annexe.

V. La présente Convention sera ratifiée, et les ratifications en seront échangées à Berlin dans le plus court délai.

En foi de quoi, et munis à cet effet de pleins pouvoirs trouvés en bonne et due forme, les Plénipotentiaires respectifs ont signé la présente Convention, et y ont apposé le sceau de leurs armes.

Fait à Berlin le 20 Septembre, 1860. (L.S.) LAUNAY.
(L.S.) GEFFKEN.

DECRET de l'Empereur des Français, portant promulgation du Traité d'Amitié, de Commerce et de Navigation conclu, le 11 *Avril,* 1859, *entre la France et la République de Nicaragua.—Paris, le* 21 *Janvier,* 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères,

Avons décrété et décrétons ce qui suit :

ART. I. Un Traité d'Amitié, de Commerce et de Navigation ayant été conclu, le 11 Avril, 1859, entre la France et la République de Nicaragua, et les ratifications de cet acte ayant été échangées à Paris le 10 Janvier, 1860, ledit Traité, dont la teneur suit, recevra sa pleine et entière exécution.

TRAITE.

Sa Majesté l'Empereur des Français et la République de Nicaragua, désireux de maintenir et de fortifier les relations de bonne amitié qui existent heureusement entre eux, et de favoriser les relations commerciales entre leurs sujets et citoyens respectifs, ont jugé con-

venable de conclure un Traité d'amitié, de commerce et de navigation, et, à cet effet, ont nommé pour leurs Plénipotentiaires, à savoir :

Sa Majesté l'Empereur des Français, M. le Comte de Sartiges, Grand Officier de l'Ordre Impérial de la Légion d'Honneur, &c. ; Son Envoyé Extraordinaire à Washington ;

Et Son Excellence le Président de la République de Nicaragua, M. le Général Maximo Jerez, son Envoyé Extraordinaire et Ministre Plénipotentiaire à Washington ;

Lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivants :

ART. I. Il y aura paix constante et amitié perpétuelle et sincère entre Sa Majesté l'Empereur des Français, ses héritiers et successeurs, d'une part, et la République de Nicaragua, d'autre part, et les sujets et citoyens des deux Etats, sans exception ni de personnes ni de lieux.

II. Il y aura entre tous les territoires des Etats de Sa Majesté l'Empereur des Français, en Europe, et ceux de la République de Nicaragua, une liberté réciproque de commerce. Les sujets et citoyens des deux Etats pourront entrer en toute liberté, avec leurs navires et cargaisons, dans tous les lieux, ports et rivières des deux Etats qui sont ou seront dans l'avenir ouverts au commerce étranger.

Ils pourront y faire le commerce d'échelle pour y décharger, en tout ou en partie, les cargaisons par eux apportées de l'étranger, et pour former successivement leurs cargaisons de retour ; mais ils n'auront pas la faculté d'y décharger les marchandises qu'ils auraient reçues dans un autre port du même Etat, ou, autrement, de faire le cabotage, qui demeure exclusivement réservé aux nationaux.

Ils pourront, sur les territoires respectifs, voyager ou séjourner,



que les citoyens de Nicaragua jouissent de la même liberté de commerce et de navigation stipulée dans l'Article précédent, dans les domaines de Sa Majesté situés hors d'Europe, qui sont ou seront dans l'avenir ouverts au commerce et à la navigation de la nation la plus favorisée ; et, réciproquement, les droits établis par le présent Traité eu faveur des Français seront communs aux habitants des colonies Françaises.

IV. Les sujets et citoyens respectifs jouiront, dans les deux Etats, d'une constante et complète protection pour leurs personnes et leurs propriétés ; ils auront un libre et facile accès auprès des tribunaux de justice pour la poursuite et la défense de leurs droits, et ce, aux mêmes conditions qui seront en usage pour les citoyens du pays dans lequel ils résideront.

Ils seront maîtres à cet effet d'employer, dans toutes les circonstances, les avocats, avoués et agents de toute classe qu'ils jugeront á propos ; enfin ils auront la faculté d'être présents aux décisions et sentences des tribunaux dans les causes qui les intéresseront, comme aussi à toutes les enquêtes et dépositions de témoins qui pourront avoir lieu à l'occasion des jugements, toutes les fois que les lois des pays respectifs permettront la publicité de ces actes.

Ils seront d'ailleurs exempts de tout service personnel, soit dans les armées de terre ou de mer, soit dans les gardes ou milices nationales, ainsi que de toutes les contributions de guerre, emprunts forcés, réquisitions militaires, et, dans tous les autres cas, ils ne pourront être assujettis, pour leurs propriétés, soit mobilières, soit immobilières, ni à aucun autre titre quelconque, à d'autres charges ordinaires ou extraordinaires que celles payées par les nationaux eux-mêmes.

Les sujets et citoyens des deux pays auront le droit de se transporter en tous lieux sur les territoires de l'un et de l'autre pays, et jouiront, en toute circonstance, de la même sécurité que les sujets et citoyens du pays dans lequel ils résident, à la condition par eux d'observer dûment les lois et ordonnances.

V. Les Français Catholiques jouiront dans la République de Nicaragua, sous le rapport de la religion et du culte, de toutes les libertés, garanties et protection dont les nationaux y jouissent ; et les citoyens du Nicaragua Catholiques jouiront également en France des mêmes libertés, garanties et protection que les nationaux.

Les Français professant un autre culte, qui se trouveraient dans la République de Nicaragua, jouiront également de la plus parfaite et entière liberté de conscience, sans pouvoir être inquiétés, molestés ou tourmentés pour cause de religion. Ils ne pourront pas non plus être inquiétés, molestés ou tourmentés, dans l'exercice de leur religion, dans des maisons particulières, dans des chapelles, ou dans des places destinées à leur culte, pourvu qu'en agissant ainsi ils

observent la bienséance due au culte divin et le respect dû aux lois du pays. La liberté leur sera aussi accordée d'ensevelir ceux des leurs qui viendraient à décéder sur les territoires de la République de Nicaragua dans des places convenables, appropriées et choisies par eux-mêmes à cet effet, à la connaissance des autorités locales, sans que leurs funérailles ou sépultures puissent être troublées d'aucune manière ni sous aucun prétexte.

De la même manière, les citoyens du Nicaragua appartenant à une autre religion que la religion Catholique jouiront des mêmes droits dans les territoires des Etats de Sa Majesté l'Empereur des Français.

VI. Les sujets et les citoyens des deux pays seront libres de disposer comme il leur conviendra, par vente, donation, échange, testament, ou de quelque autre manière que ce soit, de tous les biens qu'ils posséderaient sur les territoires respectifs. De même, les sujets ou citoyens de l'un des deux Etats qui seraient héritiers de biens situés dans l'autre pourront succéder, sans empêchement, à ceux desdits biens qui leur seraient dévolus *ab intestat;* et les héritiers ou légataires ne seront pas tenus à acquitter des droits de succession autres ou plus élevés que ceux qui seraient supportés dans des cas semblables par les nationaux eux-mêmes.

VII. Les sujets et citoyens de l'un et l'autre Etat ne pourront être respectivement soumis à aucun embargo, ni être retenus avec leurs navires, équipages et cargaisons et effets de commerce pour une expédition militaire quelconque, ni pour quelque usage public ou particulier que ce soit, sans qu'il soit immédiatement accordé aux intéressés une indemnité suffisante pour cet usage, et pour les torts et les dommages qui, n'étant pas purement fortuits, naîtront du service auquel ils seront obligés.

VIII. Si (ce qu'à Dieu ne plaise!) la paix entre les deux Hautes



aussi les deniers dus par les particuliers ou par l'Etat, et les actions de banque ou de compagnies, ne seront assujettis à d'autres embargos, séquestre, ni à aucune autre réclamation, que ceux qui pourraient avoir lieu à l'égard des mêmes effets ou propriétés appartenant à des nationaux.

IX. Le commerce Français dans le Nicaragua, et le commerce Nicaraguaien en France, seront traités, sous le rapport des droits de Douane, tant à l'importation qu'à l'exportation, comme celui de la nation la plus favorisée.

Dans aucun cas, les droits d'importation imposés en France sur les produits du sol ou de l'industrie de Nicaragua, et dans le Nicaragua, sur les produits du sol ou de l'industrie de la France, ne pourront être autres ou plus élevés que ceux auxquels sont ou seront soumis les mêmes produits importés par la nation la plus favorisée.

Aucune prohibition d'importation ou d'exportation n'aura lieu dans le commerce réciproque des deux pays, qu'elle ne soit également étendue à toutes les autres nations.

Les formalités qui pourraient être requises pour justifier de l'origine et de la provenance des marchandises respectivement importées dans l'un des deux Etats seront également communes à toutes les autres nations.

X. Les produits du sol et de l'industrie de l'un des deux pays payeront, dans les ports de l'autre, les mêmes droits d'importation, qu'ils soient chargés sur navires Français ou Nicaraguaiens.

De même, les produits exportés acquitteront les mêmes droits et jouiront des mêmes franchises, allocations et restitutions qui sont ou seront réservées aux exportations faites aux bâtiments nationaux. Toutefois, il est fait exception à ce qui précède en ce qui concerne les avantages et encouragements particuliers dont la péche nationale est ou pourra être l'objet dans l'un ou l'autre pays.

XI. Les navires Français arrivant dans les ports de Nicaragua ou en sortant, et les navires Nicaraguaiens à leur entrée en France ou à leur sortie, ne seront assujettis à d'autres ni de plus forts droits de tonnage, de phare, de port, de pilotage, de quarantaine ou autres affectant le corps du bâtiment, que ceux auxquels sont ou seront respectivement assujettis les navires nationaux dans les deux pays.

Les droits de tonnage et autres qui se prélèvent en raison de la capacité des navires seront d'ailleurs perçus en France, pour les navires Nicaraguaiens, d'après le registre Nicaraguaien du navire, et, pour les navires Français dans le Nicaragua, d'après le passeport ou congé Français du navire.

XII. Les navires respectifs qui relâcheront dans les ports ou sur

les côtes de l'un ou l'autre Etat ne seront assujettis à aucun droit de navigation, sous quelque dénomination que ces droits soient respectivement établis, sauf les droits de pilotage, phare et autres de même nature, représentant le salaire de services rendus par des industries privées, pourvu que ces navires n'effectuent aucun chargement ni déchargement de marchandises.

Toutes les fois que les citoyens des deux Hautes Parties Contractantes seront forcés de chercher un refuge ou un asile dans les rivières, baies, ports ou territoires de l'autre, avec leurs navires tant de guerre que marchands, publics ou particuliers, par l'effet du mauvais temps ou de la poursuite des pirates ou des ennemis, il leur sera donné toute protection, pour qu'ils puissent réparer leurs navires, se procurer des vivres, et se mettre en état de continuer leur voyage sans aucun empêchement; et même, dans le cas où, à raison de relâche forcée, les navires respectifs seraient obligés de déposer à terre les marchandises composant leurs chargements, ou de les transborder sur d'autres navires pour éviter qu'elles ne dépérissent, il ne sera exigé d'eux d'autres droits que ceux relatifs au loyer des magasins, cours et chantiers qui seraient nécessaires pour déposer les marchandises et pour réparer les avaries des bâtiments.

De plus, les citoyens des deux Etats qui navigueront sur des bâtiments de guerre ou marchands, ou sur des paquebots, se prêteront, en haute mer et sur les côtes, toute espèce de secours, en vertu de l'amitié qui existe entre les deux Etats.

XIII. Seront considérés comme Français les bâtiments construits en France, ou ceux acquis par achat ou autre titre translatif de propriété, ou ceux qui, capturés sur l'ennemi par des armements Français, auront été déclarés de bonne prise, ou enfin ceux qui auront été condamnés par les tribunaux Français pour infraction aux

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Il est convenu, en outre, que tout navire Français ou Nicaraguaien, pour jouir, aux conditions ci-dessus, du privilège de sa nationalité, devra être muni d'un passeporte, congé ou registre, dont la forme sera réciproquement communiquée, et qui, certifié par l'autorité compétente pour le délivrer, constatera,

1°. D'abord, le nom, la profession et la résidence en France ou dans le Nicaragua du propriétaire, en exprimant qu'il est unique, ou des propriétaires, en indiquant leur nombre et dans quelle proportion chacun possède;

2°. Le nom, la dimension, la capacité et enfin toutes les particularités du navire qui peuvent le faire reconnaître ainsi qu'établir sa nationalité.

XIV. Les navires, marchandises et effets appartenant à des citoyens de l'une des Parties Contractantes, qui auraient été pris par des pirates, soit dans les limites de leur juridiction, soit en pleine mer, et qui auraient été conduits ou trouvés dans les rivières, rades, baies, ports ou domaines de l'autre partie, seront remis à leurs propriétaires en payant, s'il y a lieu, les frais de reprise, qui seront déterminés par les tribunaux respectifs, lorsque le droit de propriété aura été prouvé devant les tribunaux, et sur la réclamation qui devra être faite, dans le délai d'un an, par les parties intéressées, par leurs fondés de pouvoir ou par les agents des Gouvernements respectifs.

XV. S'il arrive que l'une des deux Hautes Parties Contractantes soit en guerre avec un autre Etat, aucun sujet ou citoyen de l'autre Partie Contractante ne pourra accepter de commissions ou lettres de marque pour aider l'ennemi à agir hostilement contre la partie qui se trouve en guerre, ou pour inquiéter le commerce ou les propriétés de ses sujets ou citoyens, ni s'enrôler dans ses troupes.

XVI. Les deux Hautes Parties Contractantes adoptent dans leurs relations mutuelles le principe que le pavillon couvre la marchandise. Si l'une des deux parties reste neutre, dans le cas où l'autre viendrait à être en guerre avec quelque Puissance, les marchandises couvertes du pavillon neutre, excepté la contrabande de guerre, seront aussi réputées neutres, même quand elles appartiendraient aux ennemis de l'autre Partie Contractante.

Il est également convenu que la liberté du pavillon s'étend aux individus qui seraient trouvés à bord des bâtiments neutres, et que, lors même qu'ils seraient ennemis des deux Parties, ils ne pourront être extraits des bâtiments neutres, à moins qu'ils ne soient militaires, et alors engagés au service de l'ennemi.

Il est également convenu que la propriété neutre, excepté la contrebande de guerre, trouvée à bord d'un bâtiment ennemi, sera aussi considérée comme neutre.

Les deux Hautes Parties Contractantes n'appliqueront ces principes qu'aux puissances qui les reconnaîtront également.

XVII. Dans le cas où l'une des Hautes Parties Contractantes serait en guerre et où ses bâtiments auraient à exercer en mer le droit de visite, il est convenu que, s'ils rencontrent un navire appartenant à une Partie demeurée neutre, les premiers resteront hors de portée de canon, et qu'ils pourront y envoyer dans leurs canots seulement deux ou trois personnes chargées de procéder à l'examen des papiers relatifs à sa nationalité et à son chargement. Les commandants seront responsables de toute vexation ou acte de violence qu'ils commettraient ou toléreraient dans cette occasion.

Il est également convenu que, dans aucun cas, la Partie neutre ne pourra être obligée à passer à bord du bâtiment visiteur, ni pour exhiber ses papiers, ni pour toute autre cause que ce soit.

La visite ne sera permise qu'à bord des bâtiments qui navigueraient sans convoi. Il suffira, quand ils seront convoyés, que le commandant du convoi déclare verbalement, et sur sa parole d'honneur, que les navires placés sous sa protection ou sous son escorte appartiennent à l'Etat dont il arbore le pavillon, et qu'il déclare, lorsque les navires seront destinés pour un port ennemi, qu'ils n'ont pas de contrebande de guerre.

XVIII. Dans le cas où l'un des deux pays serait en guerre avec quelque autre puissance, les citoyens de l'autre pays pourront continuer leur commerce avec les états belligérants, quelsqu'ils soient, excepté avec les villes ou ports qui seraient réellement assiégés ou bloqués. Il est également entendu qu'on n'envisagera comme assiégées ou bloquées que les places qui se trouveraient attaquées par une force belligérante capable d'empêcher les neutres d'entrer. Bien entendu que cette liberté de commerce et de navigation ne s'étendra pas aux articles réputés contrebande de guerre, tels que



Dans aucun cas, un bâtiment de commerce, appartenant à des sujets ou citoyens de l'un des deux pays, qui se trouvera expédié pour un port bloqué par l'autre Etat, ne pourra être saisi, capturé et condamné, si, préalablement, il ne lui a été fait une notification ou signification de l'existence du blocus par quelque bâtiment faisant partie de l'escadre ou division de ce blocus; et, pour qu'on ne puisse alléguer une prétendue ignorance des faits, et que le navire qui aura été dûment averti soit dans le cas d'être capturé s'il vient ensuite à se représenter devant le même port pendant le temps que durera le blocus, le commandant du bâtiment de guerre qui le rencontrera d'abord devra apposer son visa sur les papiers de ce navire, en indiquant le jour, le lieu et la hauteur où il l'aura visité et lui aura fait la signification en question, laquelle contiendra d'ailleurs les mêmes indications que celles exigées pour le visa.

Tous navires de l'une des deux Parties Contractantes qui seraient entrés dans un port avant qu'il fût assiégé, bloqué ou investi par l'autre puissance, pourront le quitter sans empêchement, avec leurs cargaisons; et si ces navires se trouvent dans le port après la reddition de la place, ils ne seront point sujets à la confiscation, non plus que leurs cargaisons; mais ils seront rendus à leurs propriétaires.

XIX. Chacune des deux Hautes Parties Contractantes sera libre d'établir des Consuls à résidence dans les territoires et domaines de l'autre, pour la protection du commerce. Ces agents n'entreront en fonctions qu'après avoir obtenu leur *exequatur* du Gouvernement du pays où ils seront envoyés.

Celui-ci conservera, d'ailleurs, le droit de déterminer les résidences où il lui conviendra d'admettre les Consuls. Bien entendu que, sous ce rapport, les deux Governements ne s'opposeront respectivement aucune restriction qui ne soit commune dans les deux pays à toutes les nations.

XX. Les Consuls respectifs et leurs chanceliers jouiront dans les deux pays des priviléges attribués à leur charge, tels que l'exemption des logements militaires et celle de toutes les contributions directes, tant personnelles que mobilières ou somptuaires, à moins, toutefois, qu'ils ne soient citoyens du pays où ils résident, ou qu'ils ne deviennent, soit propriétaires, soit possesseurs de biens immeubles, ou enfin qu'ils ne fassent le commerce, pour lesquels cas ils seront soumis aux mêmes taxes, charges ou impositions que les autres particuliers. Ces agents jouiront, en outre, de tous les autres priviléges, exemptions et immunités qui pourront être accordés, dans leur résidence, aux agents du même rang de la nation la plus favorisée.

XXI. Les archives, et en général tous les papiers des Consulats

respectifs seront inviolables, et, sous aucun prétexte ni dans aucun cas, ils ne pourront être saisis ni visités par l'autorité locale.

XXII. Les Consuls respectifs pourront, au décès de leurs nationaux morts sans avoir testé ni désigné d'exécuteurs testamentaires.

1°. Apposer les scellés, soit d'office, soit à la réquisition des parties intéressées, sur les effets mobiliers et les papiers du défunt, en prévenant d'avance de cette opération l'autorité locale compétente, qui pourra y assister, et même si elle le juge convenable, croiser de ses scellés ceux apposés par le Consul, et dès lors ces doubles scellés ne seront levés que de concert ;

2° Dresser aussi, en présence de l'autorité locale compétente, si elle croit devoir s'y présenter, l'inventaire de la succession ;

3°. Faire procéder, suivant l'usage du pays, à la vente des effets mobiliers dépendants de la succession, lorsque lesdits meubles pourront se détériorer par l'effet du temps, ou que le Consul croira leur vente utile aux intérêts des héritiers du défunt ;

Et 4°. Administrer ou liquider personnellement, ou nommer, sous leur responsabilité, un agent pour administrer et liquider ladite succession, sans que, d'ailleurs, l'autorité locale ait à intervenir dans ces nouvelles opérations.

Mais lesdits Consuls seront tenus de faire annoncer la mort de leurs nationaux dans une des gazettes qui se publient dans l'étendue de leur arrondissement, et ne pourront faire délivrance de la succession et de son produit aux héritiers légitimes ou à leurs mandataires, qu'après avoir fait acquitter toutes les dettes que le défunt pourrait avoir contractées dans le pays, ou qu'autant qu'une année se sera écoulée depuis la date de la publication du décès, sans qu'aucune réclamation ait été présentée contre la succession.

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faisaient partie de cet équipage. Sur cette demande ainsi justifiée, la remise ne pourra leur être refusée; il leur sera donné, de plus, toute aide et assistance pour la recherche, saisie et arrestation desdits déserteurs, qui seront eux-mêmes detenus et gardés dans les prisons du pays à la réquisition et aux frais des Consuls, jusqu'à ce que ces agents aient trouvé une occasion de les livrer ou de les faire partir. Si pourtant cette occasion ne se présentait pas dans un délai de 3 mois à compter du jour de l'arrestation, les déserteurs seraient mis en liberté et ne pourraient plus être arrêtés pour la même cause.

XXV. Toutes les fois qu'il n'y aura pas de stipulations contraires entre les armateurs, les chargeurs et les assureurs, les avaries que les navires des deux pays auraient éprouvées en mer en se rendant dans les ports respectifs seront réglées par les Consuls de leur nation.

XXVI. Toutes les opérations relatives au sauvetage des navires Français naufragés ou échoués sur les côtes de Nicaragua seront dirigées par les Consuls de France, et, réciproquement, les Consuls Nicaraguaiens dirigeront les opérations relatives au sauvetage des navires de leur nation naufragés ou échoués sur les côtes de France.

L'intervention des autorités locales aura seulement lieu dans les deux pays pour maintenir l'ordre, garantir les intérêts des sauveteurs s'ils sont étrangers aux équipages naufragés, et assurer l'exécution des dispositions à observer pour l'entrée et la sortie des marchandises sauvées. En l'absence et jusqu'à l'arrivée des Consuls ou Vice-Consuls, les autoritées locales devront, d'ailleurs, prendre toutes les mesures nécessaires pour la protection des individus et la conservation des effets naufragés.

Les marchandises sauvées ne seront tenues à aucun droit de douane, à moins qu'elles ne soient admises à la consommation intérieure.

XXVII. La République de Nicaragua accorde, par le présent Traité, à la France et aux sujets Français, ainsi qu'aux propriétés Françaises, le droit de transit entre les océans Atlantique et Pacifique, à travers les territoires de cette République, sur toutes routes de communication naturelles ou artificielles, soit par terre, soit par eau, qui existent aujourd'hui, ou qui pourront exister dans l'avenir ou être construites sous l'autorité de Nicaragua, pour en user et en jouir de la même manière, et aux mêmes termes, par les deux Parties, et par leurs sujets et citoyens respectifs. La République de Nicaragua, toutefois, réserve son plein et entier droit de Souveraineté sur lesdites routes; et généralement, la République de Nicaragua s'engage à accorder, à la France et aux sujets Français, les mêmes droits et priviléges, sous tout rapport, à l'égard du

transit et des prix du transit, comme aussi tous les autres droits, priviléges ou avantages quelconques, relativement au passage, ou à l'emploi de troupes, ou à tout autre objet qui sont aujourd'hui, ou pourront être, dans l'avenir, accordés ou donnés en jouissance à la nation la plus favorisée.

XXVIII. Sa Majesté l'Empereur des Français consent, par le présent Traité, à étendre sa protection sur toutes les routes de communication ci-dessus désiguées, et à garantir leur neutralité et leur usage inoffensif.

Sa Majesté Impériale consent aussi à employer son influence sur les autres nations, pour les engager à garantir cette neutralité et cette protection. Et la République de Nicaragua, de son côté, s'engage à établir un port libre à chacune des extrémités d'une des routes susdites de communication entre les océans Atlantique et Pacifique. Dans ces ports, aucuns droits de tonnage ou autres ne seront imposés ou exigés, par le Gouvernement de Nicaragua, sur les navires Français, ou sur les effets ou marchandises quelconques, appartenant à des sujets Français ou de quelque autre pays, destinés *bonâ fide* pour le transit à travers lesdites routes de communication, et non pas pour la consommation dans l'intérieur de la République de Nicaragua, à moins que les deux Gouvernements ne conviennent, dans l'avenir, de fixer un droit à prélever sur ces objets. Sa Majesté Impériale aura aussi la liberté, en en donnant avis au Gouvernement ou aux autorités de Nicaragua, de transporter des troupes, en tant qu'elles seront destinées pour une possession Française, ou quelque point d'outre-mer, et qu'on n'aura pas l'intention de les employer contre les Etats Centre Américains et ceux en confédération avec Nicaragua; des munitions de guerre; et aussi de conduire des criminels, des prisonniers ou des condamnés avec leurs escortes,



travers l'isthme, dans des sacs fermés, dont le contenu ne pourra être destiné à être distribué dans l'intérieur de la République de Nicaragua, franc de taxes ou d'impôts de la part du Gouvernement de Nicaragua; mais cette liberté ne peut pas être étendue jusqu'à permettre à ces individus ou compagnies en vertu de ce droit de transporter les malles, de transporter aussi des passagers et du fret, à l'exception des employés désignés par l'administration des postes Françaises pour accompagner les malles.

XXIX. La République de Nicaragua consent, s'il devenait nécessaire, à une époque quelconque, d'employer des forces militaires pour la sécurité et la protection des personnes et des propriétés passant sur quelqu'une des susdites routes que ce soit, d'employer la force requise pour cet objet. Mais si elle manque à le faire, pour quelque cause que ce soit, Sa Majesté Impériale peut, avec le consentement ou à la demande du Gouvernement de Nicaragua ou de son Ministre à Paris ou à Londres, ou des autorités locales compétentes, civiles ou militiares, légalement désignées, employer ses forces dans ce but et non dans un autre; et quand la nécessité aura cessé, au jugement du Gouvernement de Nicaragua, lesdites forces seront immédiatement retirées.

Néanmoins, dans le cas exceptionnel d'un danger imminent et imprévu de la vie et des propriétés des sujets Français, les forces de Sa Majesté sont autorisées à leur donner leur protection, sans que le consentement préalable en question ait été obtenu.

XXX. Il est entendu, toutefois, que Sa Majesté Impériale, en accordant sa protection à ces routes de communication, et en garantissant leur neutralité et leur sécurité, entend toujours que sa protection et sa garantie sont accordées conditionnellement et pourront être retirées si Sa Majesté Impériale jugeait que les personnes ou la compagnie entreprenant ou exploitant ces routes adoptaient ou établissaient des règlements concernant le trafic sur ces routes, contraires à l'esprit et à l'intention de ce Traité, soit en faisant des distinctions injustes en faveur du commerce de quelque nation ou nations que ce soient, soit en commettant des exactions, soit en imposant des droits déraisonnables sur les malles, passagers, navires, denrées, marchandises et autres articles. Toutefois, ladite protection et garantie ne seront pas retirées par Sa Majesté Impériale, sans qu'il n'en ait été donné avis, 6 mois auparavant, au Gouvernement de Nicaragua.

XXXI. Et il est en outre entendu et convenu que, dans toute concession ou contrat qui pourrait être fait ou conclu dans la suite, par le Gouvernement de Nicaragua, ayant rapport aux routes interocéaniques dont il est question, ou à quelqu'une d'entre elles, les droits et priviléges garantis par cette Convention à Sa Majesté

Impériale et aux sujets Français seront pleinement protégés et réservés; et que, s'il existait aujourd'hui quelque concession ou contrat de cette sorte qui présentât un caractère valide, il est, en outre, entendu que la garantie et la protection de Sa Majesté Impériale, stipulées dans l'Article XXVIII de ce Traité, seront tenues pour nulles et non avenues, jusqu'à ce que les possesseurs de ces concessions et de ces contrats aient reconnu les concessions faites par ce Traité à Sa Majesté Impériale et aux sujets Français concernant les routes inter-océaniques ou quelqu'une d'entre elles, et aient consenti à en observer les conditions et à s'y soumettre, toute comme si elles avaient été insérées dans leurs concessions ou contrats originaux. Après cette reconnaissance et cette admission, ladite garantie et protection sera en pleine force. Il est bien entendu que rien de ce qui est contenu ici ne sera interprété pour ou contre la validité de l'un quelconque de ces contrats.

XXXII. Après 10 ans à dater de l'achèvement d'un canal, d'un chemin de fer, ou de toute autre route de communication à travers le territoire de Nicaragua, de l'océan Atlantique à l'océan Pacifique, la compagnie qui aura construit ou qui sera en possession de cette voie ne pourra partager entre ses actionnaires, directement ou indirectement, par l'émission de nouvelles actions, le payement de dividendes ou autrement, plus de 15 pour cent par an, ou dans cette proportion, sur le produit des drois perçus. Et toutes les fois que ces droits s'éléveront à un produit supérieur, ils seront réduits au taux de 15 pour cent par an.

XXXIII. Il est entendu que rien de ce qui est contenu dans ce Traité ne devra être compris de façon à affecter la réclamation du Gouvernement et des citoyens de la République de Costa Rica à un libre passage par la rivière San-Juan pour leurs personnes et leurs propriétés de l'océan et vers l'océan.



1°. Le présent Traité sera en vigueur pendant 20 années, à compter du jour de l'échange des ratifications, et si, 12 mois avant l'expiration de ce terme, ni l'une ni l'autre des deux Hautes Parties Contractantes n'annonce, par une déclaration officiele, son intention d'en faire cesser les effets, ledit Traité restera encore obligatoire pendant une année, et ainsi de suite jusqu'à l'expiration de 12 mois qui suivront la déclaration officielle en question, à quelque époque qu'elle ait lieu.

Il est bien entendu que, dans le cas où cette déclaration viendrait à être faite par l'une des Parties Contractantes, les dispositions du Traité relatives au commerce et à la navigation seraient seules considérées comme abrogées et annulées ; mais que, à l'égard des Articles qui concernent les relations de paix et d'amitié, le Traité n'en restera pas moins obligatoire pour les deux Puissances.

2°. Si un ou plusieurs sujets ou citoyens de l'une ou de l'autre partie venaient à enfreindre quelqu'un des Articles contenus dans le présent Traité, lesdits sujets ou citoyens en seront personnellement reponsables, sans que, pour cela, la bonne harmonie et la réciprocité soient interrompues entre les deux natious, qui s'obligent mutuellement à ne protéger en aucune manière l'offenseur ; si, malheureusement, un des Articles contenus dans le présent Traité venait, en quelque manière que ce soit, à être violé ou enfreint, il est expressément convenu que la partie qui y sera restée fidéle devra d'abord présenter à l'autre partie un exposé des faits ainsi qu'une demande en réparation, accompagnée des documents et des preuves nécessaires pour établir la légitimité de sa plainte, et qu'elle ne pourra autoriser des représailles ni se porter elle-même à des hostilités qu'autant que la réparation demandée par elle aura été réfusée ou arbitrairement différée.

XXXVI. Et dans le cas où il serait convenable et utile pour faciliter davantage la bonne harmonie entre les deux Hautes Parties Contractantes, et pour éviter à l'avenir toute espèce de difficultés, de proposer ou d'ajouter quelques Articles au présent Traité, il est convenu que les deux Puissances se prêteront, sans le moindre retard, à traiter et à stipuler les Articles qui pourraient manquer audit Traité, s'ils étaient jugés mutuellement avantageux, et que lesdits Articles, après avoir été convenus et dûment ratifiés, feront partie du présent Traité d'Amitié, de Commerce et de Navigation.

XXXVII. Le présent Traité, composé de 37 Articles, sera ratifié par Sa Majesté l'Empereur des Français et par le Gouvernement de la République de Nicaragua, et les ratifications en seront échangées à Paris, à Managua ou à Washington dans le délai de 9 mois, ou plus tôt si faire se peut.

En foi de quoi les Plénipotentiaires l'ont signé et y ont apposé leurs cachets.

Fait à Washington, le 11 d'Avril de l'an de Grâce, 1859, en double exemplaire.

(L.S.) SARTIGES.
(L.S.) MAXIMO JEREZ.

II. Notre Ministre et Secrétaire d'Etat au Département des Affaires Etrangères est chargé de l'exécution du présent décret.

Fait à Paris, le 21 Janvier, 1860.

Par l'Empereur: NAPOLEON.

Le Président du Conseil d'Etat, Ministre des Affaires Etrangères par intérim, J. BAROCHE.

DECRET de l'Empereur des Français, portant promulgation du Traité d'Amitié, de Commerce et de Navigation, conclu entre la France et les Iles Sandwich, le 29 Octobre, 1857.—*Paris, le 21 Janvier,* 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, Salut.

Sur le rapport de Notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères,

Avons décrété et décrétons ce qui suit:

ART. I. Un Traité d'Amitié, de Commerce et de Navigation ayant été conclu à Honolulu, le 29 Octobre, 1857, entre la France et les Iles Sandwich, et les ratifications de cet acte ayant été échangées le 8 Septembre, 1858, ledit Traité, dont la teneur suit, recevra sa pleine



troupes Hawaïennes, Son Ministre de l'Intérieur, Ministre des Finances *ad interim*, Membre de Son Conseil Privé et de la Chambre des Nobles;

Et M. Robert Crichton Wyllie, Son Ministre des Affaires Etrangères, Son Secrétaire d'Etat pour la Guerre et la Marine, Membre de Son Conseil Privé et de la Chambre des Nobles;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

ART. I. Il y aura paix constante et amitié perpétuelle entre Sa Majesté l'Empereur des Français, ses héritiers et successeurs, d'une part, et Sa Majesté le Roi des Iles Sandwich, ses héritiers et successeurs, d'autre part, et entre les sujets de l'un et de l'autre Etat, sans exception de personnes ni de lieux.

II. Il y aura entre tous les territoires de l'Empire Français en Europe, et ceux des Iles Sandwich, une liberté réciproque de commerce. Les sujets respectifs pourront entrer en toute liberté, avec leurs navires et cargaisons, dans tous les lieux, ports et rivières des deux Etats qui sont ou seront ouverts au commerce étranger.

Ils pourront y faire le commerce d'échelle, conformément aux lois, pour y décharger en tout ou en partie les cargaisons par eux apportées de l'étranger, et pour former successivement leurs cargaisons de retour; mais ils n'auront pas la faculté d'y décharger les marchandises qu'ils auraient reçues dans un autre port du même Etat, ou, autrement, de faire le cabotage, qui demeure exclusivement réservé aux nationaux.

Ils pourront, sur les territoires respectifs, voyager ou séjourner, commercer tant en gros qu'en détail, comme les nationaux; s'établir partout où ils le jugeront convenable à leurs intérêts; louer et occuper les maisons, magasins et boutiques qui leur seront nécessaires; effectuer des transports de marchandises et d'argent, et recevoir des consignations; être admis comme caution aux Douanes, quand il y aura plus d'un an qu'ils seront établis sur les lieux, et que les biens fonciers qu'ils y posséderont présenteront une garantie suffisante.

Ils seront entièrement libres de faire leurs affaires eux-mêmes et notamment de présenter en Douane leurs propres déclarations ou de se faire suppléer par qui bon leur semblera, facteur, agent, consignataire ou interprète, sans avoir, comme étrangers, à payer aucun surcroît de salaire ou de rétribution. Ils auront la faculté d'acheter et de vendre à qui bon leur semblera, sans qu'aucun monopole, contrat ou privilége exclusif de vente ou d'achat, puisse leur porter préjudice ou restreindre en quoi que ce soit leur liberté à cet égard. Ils seront également libres dans tous leurs achats comme dans toutes leurs ventes, de fixer le prix des effets, marchandises et objects quelconques tant importés que destinés à l'exportation, sauf à se conformer aux lois et règlements du pays.

Enfin, ils ne seront assujettis, dans aucun des cas ci-dessus, à d'autres charges, taxes ou impôts en matière de Douanes, que ceux auxquels sont soumis les nationaux.

III. Il est convenu que les documents présentés par des Français dans leur propre langue seront admis dans tous les cas où des documents en langue Anglaise le seraient, et que les affaires auxquelles se rapporteront les pièces rédigées dans ces deux langues seront expédiées avec la même bonne foi et le même soin. Toutes les fois que l'exactitude de la traduction de l'une des pièces susénoncées sera mise en question, ladite traduction sera soumise au Consul de France qui, après examen, la certifiera conforme.

IV. Les sujets respectifs jouiront, dans l'un et l'autre Etat, d'une constante et complète protection pour leurs personnes et leurs propriétés. Ils auront, en conséquence, un libre et facile accès auprès des tribunaux de justice, pour la poursuite et la défense de leurs droits en toute instance et dans tous les degrés de juridiction établis par les lois. Ils seront libres d'employer, dans toutes les circonstances, les avocats, avoués ou agents de toute classe qu'ils jugeront à propos; enfin, ils jouiront, sous ce rapport, des mêmes droits et priviléges que ceux qui sont ou seront accordés aux nationaux.

Ils seront, d'ailleurs, exempts de tout service personnel, soit dans les armées de terre ou de mer, soit dans les gardes ou milices nationales, ainsi que de toutes contributions de guerre, emprunts forcés, réquisitions ou services militaires quels qu'il soient, et, dans tous les autres cas, ils ne pourront pas être assujettis pour leurs propriétés, soit mobilières, soit immobilières, à d'autres charges ou impôts que ceux auxquels seraient soumis les nationaux eux-mêmes ou les sujets ou citoyens de la nation la plus favorisée sans exception.

Les sujets Hawaïens jouiront dans toutes les possessions et



VI. Les sujets des deux pays seront libres d'acquérir et de posséder des immeubles, et de disposer comme il leur conviendra, par vente, donation, échange, testament, ou de quelque autre manière que ce soit, de tous les biens qu'ils posséderaient sur les territoires respectifs. De même, les sujets de l'un des deux Etats qui seraient héritiers de biens situés dans l'autre pourront succéder, sans empêchement, à ceux desdits biens qui leur seraient dévolus même *ab intestat*, et en disposer selon leur volonté, et lesdits héritiers ou légataires ne seront assujettis à aucun droit d'aubaine ou de détraction, et ne seront pas tenus à acquitter des droits de succession ou autres plus élevés que ceux qui seraient supportés, dans des cas semblables, par les nationaux eux-mêmes.

VII. Si (ce qu'à Dieu ne plaise!) la paix entre les Deux Parties Contractantes venait à être rompue, il sera accordé, de part et d'autre, aux sujets de chacune des deux Parties Contractantes, un terme d'une année pour régler leurs affaires et pour disposer de leurs propriétés, et, en outre, un sauf conduit leur sera délivré pour s'embarquer dans tels qu'ils indiqueront de leur propre gré.

Tous les autres Français ou Hawaïens ayant un établissement fixe et permanent dans les Etats respectifs, pour l'exercice de quelque profession ou occupation que ce soit, pourront conserver leur établissement et continuer leur profession sans être inquiétés en aucune manière, et la possession pleine et entière de leur liberté et de leurs biens leur sera laissée tant qu'ils ne commettront aucune offense contre les lois du pays. Enfin leurs propriétés ou biens, de quelque nature qu'ils soient, ne seront assujettis à aucune saisie ou séquestre, ni à d'autres charges et impositions que celles exigées des nationaux. De même, les deniers qui leur seraient dus par des particuliers, ou qu'ils posséderaient dans les fonds publics, dans les banques et compagnies industrielles ou commerciales, ne pourront jamais être saisis, séquestrés ou confisqués.

VIII. Le commerce Français dans les Iles Sandwich et le commerce Hawaïen en France seront traités, sous le rapport des droits de Douane, tant à l'importation qu'à l'exportation, comme celui de la nation étrangère la plus favorisée.

Dans aucun cas, les droits d'importation imposés en France sur les produits du sol ou de l'industrie des Iles Sandwich, et, dans ces îles, sur les produits du sol ou de l'ndustrie de la France, ne pourront être autres ou plus élevés que ceux auxquels sont ou seront soumis les mêmes produits de la nation la plus favorisée. Il en sera de même pour les droits d'exportation.

Aucune prohibition ou restriction d'importation ou d'exportation n'aura lieu dans le commerce réciproque des deux pays, qu'elle ne soit également étendue à toutes les autres nations; et les formalités qui pourraient être requises pour justifier de l'origine ou de la pro-

venance des marchandises respectivement importées dans l'un des deux Etats, seront également communes à toutes les autres nations.

IX. Tous les produits du sol et de l'industrie de l'un des deux pays dont l'importation n'est pas expressément prohibée payeront dans les ports de l'autre les mêmes droits d'importation, qu'ils soient chargés sur navires Français ou Hawaïens. De même, les produits exportés acquitteront les mêmes droits et jouiront des mêmes franchises, allocations et restitutions de droits, qui sont ou pourraient être réservées aux exportations faites sur bâtiments nationaux. Toutefois, il est fait exception à ce qui précède en ce qui concerne les avantages et encouragements particuliers dont la pêche nationale est ou pourra être l'objet dans l'un ou l'autre pays.

X. Il est convenu,

1°. Que l'importation et la vente des vins et eaux de vie d'origine Française ne pourront être prohibées dans les Iles Sandwich;

2°. Que le taux des droits imposés, dans les ports Hawaïens, à l'importation des vins d'origine Française dits de cargaison, en barriques et en caisses, n'excédera pas, pendant la durée du présent Traité, le taux de 5 pour cent de la valeur, les prix de facture devant servir de base d'évaluation, conformément à la loi Hawaïenne du 27 Avril, 1846;

3°. Que le taux des droits sur les vins Français de qualité supérieure, mais qui ne contiendront pas plus de 18 pour cent d'alcool n'excédera pas, pendant la même période, 15 pour cent de la valeur;

4°. Que le taux des droits imposés sur les eaux de vie d'origine Française n'excédera pas, pendant la même période, 3 piastres au maximum per gallon, tel qu'il est défini par la loi Hawaïenne du 27 Avril, 1846, 3me partie, chap. iv, art. 2, p. 187.

Il ne sera ajouté, dans aucun cas, aux droits sur les vins et eaux

dans le port de prime-abord, et se rendre ensuite, avec le reste de cette cargaison, dans d'autres ports du même Etat, soit pour y achever de débarquer leur chargement d'arrivée, soit pour y compléter leur chargement de retour, en ne payant, dans chaque port, d'autres ou de plus forts droits que ceux que payent les bâtiments nationaux, dans des circonstances semblables.

XIII. Lorsque, par suite de relâche forcée ou d'avarie constatée, les navires de l'une des deux Puissances Contractantes entreront dans les ports de l'autre, ou toucheront sur les côtes, ils ne seront assujettis à aucun droit de navigation, sous quelque dénomination que ces droits soient respectivement établis, sauf les droits de pilotage et autres, représentant le salaire de services rendus par des industries privées, pourvu que ces navires n'effectuent aucune opération de commerce, soit en chargeant, soit en déchargeant des marchandises. Il leur sera permis de déposer à terre les marchandises composant leur chargement, pour empêcher qu'elles ne dépérissent, et il ne sera exigé d'eux d'autres droits que ceux relatifs aux loyers des magasins et chantiers publics qui seraient nécessaires pour déposer les marchandises, et pour réparer les avaries du bâtiment.

XIV. Seront considérés comme Français les bâtiments construits en France, ou nationalisés, conformément aux lois de ce pays, pourvu d'ailleurs que les capitaines et les trois quarts de l'équipage soient Français. Le, ou les propriétaires dudit navire ne seront tenus de justifier de la même nationalité que dans les proportions fixées par la loi Française.

De même, devront être considérés comme Hawaïens tous les bâtiments construits sur le territoire des îles Sandwich, ou nationalisés conformément aux lois Hawaïennes, pourvu, toutefois, que les capitaines et les trois quarts de l'équipage soient Hawaïens. Le, ou les propriétaires dudit navire ne seront tenus de justifier de la même nationalité que dans les proportions fixées par la loi Hawaïenne.

Il est convenu, d'ailleurs, que tout navire Français ou Hawaïen, pour jouir, aux conditions ci-dessus, du privilége de sa nationalité, devra être muni d'un passe-port, congé ou registre, dont la forme sera réciproquement communiquée, et qui, certifiée par l'autorité compétente pour le délivrer, constatera,

1°. D'abord, le nom, la profession et la résidence en France, ou aux Iles Sandwich, du propriétaire, en exprimant qu'il est unique, ou des propriétaires, en indiquant leur nombre, et dans quelle proportion chacun d'eux possède;

2°. Le nom, la dimension, la capacité, et enfin toutes les particularités du navire qui peuvent le faire reconnaître, aussi bien qu'établir sa nationalité.

En cas de doute sur cette nationalité, sur celle du propriétaire,

du capitaine et de l'équipage, les Consuls ou les Agents Consulaires de celui des deux pays pour lequel le navire sera destiné, auront le droit d'en demander les preuves authentiques, avant de viser les papiers du bord, le tout sans frais pour le navire.

Si l'expérience venait à démontrer que les intérêts de la navigation de l'une ou de l'autre des deux Parties Contractantes souffrent de la teneur du présent Article, elles se réservent d'y apporter, d'un commun accord, les modifications qui leur paraîtraient convenables.

XV. Les bâtiments de guerre, les bateaux à vapeur de l'Etat, les paquebots affectés à un service postal, et les navires baleiniers Français auront un libre accés dans les ports Hawaïens de Hanalei, Honolulu, Lahaina, Hilo, Kavaïhae, Kealakekua, Koloa; ils pourront y séjourner, s'y réparer et y faire rafraîchir leurs équipages; ils pourront aussi aller d'un port à l'autre des Iles Sandwich, pour s'y procurer des vivres frais.

Dans tous les ports énoncés dans le présent Article, comme dans tous ceux qui pourront être ouverts par la suite aux navires étrangers, les bâtiments de guerre, bateaux à vapeur, paquebots-poste et navires baleiniers seront soumis aux mêmes règles qui sont ou seront imposées, et jouiront, à tous égards, des mêmes droits, priviléges et immunités qui sont, ou seront accordées aux mêmes navires et bâtiments baleiniers Hawaïens ou à ceux de la nation la plus favorisée.

XVI. Il pourra être établi des Consuls et Vice-Consuls de chacun des deux pays dans l'autre, pour la protection du commerce; mais ces agents n'entreront en fonctions qu'après avoir obtenu l'exequatur du Gouvernement territorial. Celui-ci conservera, d'ailleurs, le droit de déterminer les résidences où il lui conviendra d'admettre les Consuls; bien entendu que, sous ce rapport, les deux

Les Consuls et Vice-Consuls, non plus que les élèves, Chanceliers et Secrétaires, étrangers à tout acte de commerce, et exclusivement limités à l'accomplissement de leurs devoirs publics, ne pourront être soumis à comparaître comme témoins devant les tribunaux. Quand la justice du pays aura besoin de prendre quelque déclaration juridique de leur part, elle devra la leur demander par écrit, ou se transporter à leur domicile pour la recevoir de vive voix.

En cas de décès, d'empêchement ou d'absence des Consuls ou Vice-Consuls, leurs Chanceliers ou Secrétaires seront, de plein droit, admis à gérer, par intérim, les affaires de l'établissement Consulaire, sans empêchement ni obstacle de la part des autorités locales, qui leur donneront, au contraire, dans ce cas, toute aide et assistance, et les feront jouir, pendant la durée de leur gestion intérimaire, de tous les droits, priviléges et immunités stipulés dans la présente Convention en faveur des Consuls et Vice-Consuls.

Pour l'exécution du paragraphe qui précède, il est convenu que les chefs de postes Consulaires devront, à leur arrivée dans le pays de leur résidence, envoyer au Gouvernement une liste nominative des personnes attachées à leur mission ; et, si quelque changement s'opérait ultérieurement dans le personnel, ils en donneront également avis.

XVIII. Les archives, et en général tous les papiers des Chancelleries des Consulats respectifs, seront inviolables, et sous aucun prétexte, ni dans aucun cas, ils ne pourront être saisis ni visités par l'autorité locale.

XIX. Les Consuls respectifs seront libres d'établir des Agents Consulaires ou Vice-Consuls dans les différentes villes, ports et lieux de leur arrondissement Consulaire où le bien du service qui leur est confié l'exigera, sauf, bien entendu l'approbation et *l'exequatur* du Gouvernement territorial. Ces agents pourront être indistinctement choisis parmi les sujets des deux pays comme parmi les étrangers, et seront munis d'un brevet délivré par le Consul qui les aura nommés et sous les ordres duquel ils devront être placés.

Ils jouiront, d'ailleurs, des mêmes priviléges et immunités stipulés par l'Article XVII de la présente Convention, sauf les exceptions mentionnées dans le premier paragraphe dudit Article.

XX. Les Consuls respectifs pourront, au décès de leurs nationaux morts sans avoir testé ni désigné d'exécuteurs testamentaires, 1° apposer les scellés, soit d'office, soit à la réquisition des parties intéressées, sur les effets mobiliers et les papiers du défunt, en prévenant d'avance, de cette opération, l'autorité locale compétente, qui pourra y assister, et même, si elle le juge convenable, croiser de ses scellés ceux qui auront été apposés par le Consul, et dès lors, ces doubles scellés ne seront levés que de concert; 2° dresser aussi, en

présence de l'autorité compétente du pays, si elle croit devoir s'y présenter, l'inventaire de la succession; 3° faire procéder, suivant l'usage du pays, à la vente des effets mobiliers en dépendant; enfin administrer et liquider personnellement ou nommer, sous leur responsabilité, un agent pour administrer et liquider ladite succession, sans que l'autorité locale ait à intervenir dans ces nouvelles opérations.

Mais lesdits Consuls seront tenus de faire annoncer la mort du défunt dans une des gazettes qui se publieront dans l'étendue de leur arrondissement, et ils ne pourront faire la délivrance de la succession, ou de son produit aux héritiers légitimes, ou à leurs mandataires, qu'après avoir fait acquitter toutes les dettes que le défunt pourrait avoir contractées dans le pays, ou qu'autant qu'une année se sera écoulée depuis la date du décès, sans qu'aucune réclamation ait été présentée contre la succession.

XXI. En tout ce qui concerne la police des ports, le chargement et le déchargement des navires, la sûreté des marchandises, biens et effets, les sujets des deux pays seront respectivement soumis aux lois et statuts du territoire. Cependant les Consuls respectifs seront exclusivement chargés de l'ordre intérieur à bord des navires de commerce de leur nation, et connaîtront seuls de tous les crimes, délits, contraventions et autres sujets de difficultés relatifs audit ordre intérieur qui surviendraient entre les hommes, le capitaine et les officiers de l'équipage, pourvu que les parties contendantes soient exclusivement des sujets Français ou des sujets Hawaïens, et les autorités locales ne pourront y intervenir autrement qu'avec l'approbation et le consentement du Consul, ou dans le cas où la paix et la tranquillité publiques seraient troublées ou compromises.

XXII. Les Consuls respectifs pourront faire arrêter et renvoyer, soit à bord, soit dans leur pays, les matelots et toutes les autres



les déserteurs seraient mis en liberté, et ne pourraient plus être arrêtés pour la même cause.

Il est, en outre, formellement convenu que toute autre concession ou facilité tendant à réprimer la désertion, que l'une des deux Parties Contractantes aurait accordée ou accorderait par la suite à un autre Etat, sera considérée comme également acquise, de plein droit, à l'autre Partie Contractante, de la même manière que si cette concession ou facilité avait été expressément stipulée dans le présent Traité.

XXIII. Toutes les fois que les armateurs, les chargeurs, les assureurs, ou leurs agents respectifs, soit dans le port de départ, soit dans celui d'arrivée, n'y feront aucune objection, les avaries que les navires des deux pays auraient éprouvées en mer, en se rendant dans les ports respectifs, seront réglées par les Consuls de leur nation.

XXIV. Toutes les opérations relatives au sauvetage des navires Français naufragés ou échoués sur les côtes des Iles Sandwich seront dirigées par les Consuls de France, et, réciproquement, les Consuls Hawaïens dirigeront les opérations relatives au sauvetage des navires de leur nation naufragés ou échoués sur les côtes de France.

L'intervention des autorités locales aura seulement lieu dans les deux pays pour maintenir l'ordre, garantir les intérêts des sauveteurs, s'ils sont étrangers aux équipages naufragés, et assurer l'exécution des dispositions à observer pour l'entrée et la sortie des marchandises sauvées. En l'absence et jusqu'à l'arrivée des Consuls ou Vice-Consuls, les autorités locales devront, d'ailleurs, prendre toutes les mesures nécessaires pour la protection des individus et la conservation des effets naufragés.

Les marchandises sauvées ne seront tenues à aucun droit de Douane, à moins qu'elles ne soient admises à la consommation intérieure.

Les indemnités de sauvetage et autres dépenses accessoires ne pourront être, dans les deux pays, autres ou plus élevées que celles qui seraient payées, en pareil cas, pour un navire national.

XXV. Il est formellement convenu entre les deux Parties Contractantes, qu'indépendamment des stipulations qui précèdent, les Agents Diplomatiques et Consulaires, les sujets de toute classe, les navires, les chargements et les marchandises de l'un des deux Etats jouiront, de plein droit, dans l'autre, des franchises, priviléges et immunités quelconques, consentis ou à consentir en faveur de la nation la plus favorisée, et ce, gratuitement, si la concession est gratuite, ou avec la même compensation, si la concession est conditionnelle.

Il est notamment stipulé que l'arrangement postal, conclu à

Honolulu, le 24 Novembre, 1853, et qui règle l'échange de la correspondance entre les îles de la société et l'Archipel Hawaïen, et réciproquement, sera maintenu, et que les deux Parties Contractantes se réservent uniquement d'en modifier les détails, au fur et à mesure que la nécessité pourra s'en faire sentir.

XXVI. Le présent Traité sera en vigueur pendant 10 ans, à compter du jour de l'échange des ratifications, et si, un an avant l'expiration de ce terme, ni l'une ni l'autre des deux Parties Contractantes n'annonce, par une déclaration officielle, son intention d'en faire cesser l'effet, le dit Traité restera encore obligatoire pendant une année, et ainsi de suite, jusqu'à l'expiration, des 12 mois qui suivront la déclaration officielle en question, à quelque époque qu'elle ait lieu.

Il est bien entendu que dans le cas où cette déclaration viendrait a être faite par l'une ou l'autre des Parties Contractantes, les dispositions du Traité relatives au commerce et à la navigation, et énoncées dans les Articles VIII, IX, X, XI, XII, XIII, XIV, et XXIV, seraient seules considérées comme ayant cessé et expiré; mais qu'à l'égard des autres Articles, le Traité n'en resterait pas moins perpétuellement obligatoire et ne pourrait être modifié que d'un commun accord entre les deux Parties Contractantes.

XXVII. Le présent Traité sera ratifié et les ratifications en seront échangées à Honolulu dans le délai de 10 mois, ou plus tôt si faire se peut. Il ne sera mis à exécution que 12 mois après la date dudit échange.

En foi de quoi les Plénipotentiaires susdésignés l'ont signée et y ont apposé leurs cachets respectifs.

Fait à Honolulu, le 29me jour du mois d'Octobre, de l'an de grâce 1857.

(L.S.) EM. PERRIN



DECRET de l'Empereur des Français, portant promulgation du Traité d'Amitié, de Commerce et de Navigation, conclu le 2 Janvier, 1858, entre la France et le Salvador.—Paris, le 3 Mars, 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères,

Avons décrété et décrétons ce qui suit:

ART. I. Un Traité d'Amitié, de Commerce et de Navigation ayant été conclu, le 2 Janvier, 1858, entre la France et la République du Salvador, et les ratifications de cet acte ayant été échangées à Guatemala, le 21 Octobre, 1859, ledit Traité, dont la teneur suit, recevra sa pleine et entière exécution.

TRAITE.

De nombreuses relations de commerce étant établies depuis plusieurs années entre l'Empire Français et la République du Salvador, il a été jugé utile d'en régulariser l'existence et d'en favoriser le développement par un Traité d'Amitié, de Commerce et de Navigation.

Dans ce but, ont nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur des Français, M. Adolphe-François de Botmiliau, Chevalier de l'Ordre Impérial de la Légion d'Honneur, son Consul-Général et Chargé d'Affaires auprès des Etats de l'Amérique Centrale,

Et Son Excellence Don Rafael Campo, Président de la République du Salvador, M. Don José-Antonio-Ortiz Urruela, Avocat des Tribunaux d'Espagne et de ses Colonies et de ceux de la République de Guatemala;

Lesquels après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivants:

ART. I. Il y aura paix constante et amitié perpétuelle et sincère entre Sa Majesté l'Empereur des Français, ses héritiers et successeurs, d'une part, et la République du Salvador, d'autre part, et les sujets et citoyens des deux Etats, sans exception de personnes et de lieux.

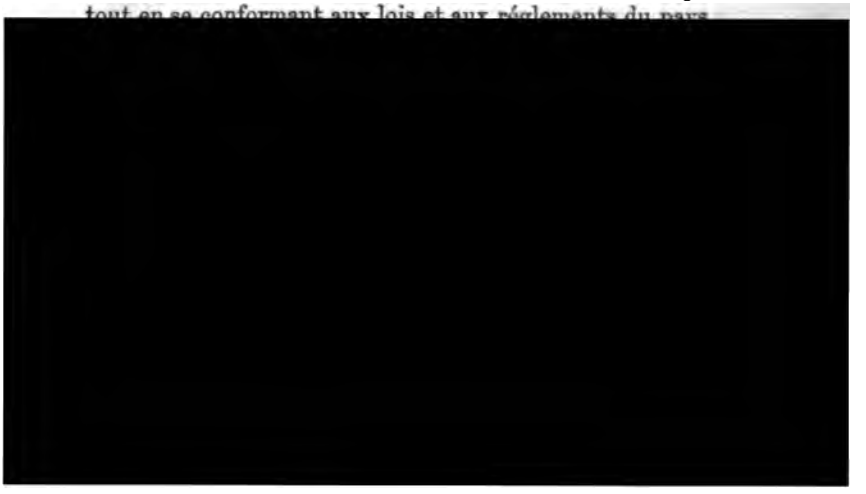
II. Il y aura réciproquement pleine et entière liberté de commerce et de navigation pour les navires et leurs chargements, comme pour les sujets et citoyens des deux Hautes Parties Contractantes, dans tous les lieux, ports et rivières de France ou du Salvador, où la navigation est actuellement permise ou sera permise à l'avenir aux navires de toute autre nation étrangère.

Les Français au Salvador, et les Salvadoriens en France, jouiront, à cet égard, de la même liberté et sécurité que les nationaux. Ils seront, pour le commerce d'échelle et pour le cabotage, traités comme les sujets et citoyens de la nation la plus favorisée.

III. Les sujets et citoyens de chacune des deux Hautes Parties Contractantes pourront réciproquement entrer en toute liberté dans quelque partie que ce soit des territoires respectifs, y séjourner, voyager, commercer tant en gros qu'en détail, louer et posséder les magasins et boutiques dont ils auront besoin, effectuer des transports de marchandises ou d'argent, recevoir des consignations, tant de l'intérieur que des pays étrangers, sans pouvoir être, en aucun cas, assujettis à des taxes, soit générales, soit locales, ou à des impôts ou obligations de quelque nature qu'ils soient, autres que ceux qui sont ou pourront être établis sur les nationaux.

Ils seront entièrement libres de faire leurs affaires eux-mêmes, présenter en Douane leurs propres déclarations ou se faire aider ou suppléer par qui bon leur semblera, fondés de pouvoirs, facteurs, agents consignataires, interprètes ou toute autre personne, soit dans l'achat ou la vente de leurs biens, effets ou marchandises, soit dans le chargement, le déchargement ou l'expédition de leurs navires. Ils auront le droit de remplir les fonctions qui leurs seront confiées par leurs compatriotes, par des étrangers ou par des nationaux, en qualité de fondés de pouvoirs, facteurs, agents consignataires ou interprètes, et, dans aucun cas, ils ne seront assujettis à d'autres taxes ou contributions que celles auxquelles sont soumis les nationaux ou les citoyens ou sujets de la nation la plus favorisée.

Ils seront également libres, dans tous leurs achats comme dans toutes leurs ventes, de fixer les prix des effets, marchandises et objets quelconques tant importés que destinés à l'exportation; le tout en se conformant aux lois et aux réglements du pays.



seront exempts de tout service personnel, soit dans les armées de terre ou de mer, soit dans les gardes ou milices nationales, ainsi que de toutes contributions extraordinaires de guerre, emprunts forcés, réquisitions ou services militaires, quels qu'ils soient. Dans tous les autres cas, ils ne pourront être soumis, pour leurs propriétés mobilières ou immobilières, à d'autres charges, exactions et impôts que ceux exigés des nationaux eux-mêmes, ou des sujets ou citoyens de la nation la plus favorisée.

Ils ne pourront être arrêtés ni expulsés, ni même envoyés d'un point à un autre du pays, par mesure de police ou gouvernementale, sans indices ou motifs graves et de nature à troubler la tranquillité publique, et, en aucun cas, avant que ces motifs et les documents qui en feront foi aient été communiqués aux Agents Diplomatiques ou Consulaires de leur nation respective. Il sera, d'ailleurs, accordé aux inculpés le temps moralement nécessaire pour présenter ou faire présenter au Gouvernement du pays leurs moyens de défense.

Il est bien entendu que les dispositions de cet Article ne sont pas applicables aux condamnations à la déportation ou au bannissement du territoire qui pourraient être prononcées, conformément aux lois et aux formes établies par les tribunaux des pays respectifs, contre les sujets ou citoyens de l'un des deux. Ces condamnations continueront à être exécutables dans les formes voulues par les législations respectives.

VI. Les sujets et citoyens de l'un et l'autre Etat ne pourront être respectivement soumis à aucun embargo, ni être retenus avec leurs navires, cargaisons, marchandises et effets, pour une expédition militaire quelconque, ni pour quelque usage public que ce soit, sans une indemnité fixée préalablement par les parties intéressées, ou par des experts nommés par elles, et suffisante, dans tous les cas, pour cet usage, et pour tous les torts, pertes, retards et dommages occasionnés par le service auquel ils auraient été soumis, ou qui pourraient en provenir.

VII. Les Français Catholiques jouiront dans la République du Salvador, sous le rapport de la religion et du culte, de toutes les libertés, garanties et protection dont les nationaux y jouissent; et les Salvadoriens jouiront également, en France, des mêmes garanties, libertés et protection que les nationaux.

Les Français professant un autre culte qui se trouveront dans la République du Salvador n'y seront inquiétés ni gênés, en aucune manière, pour cause de religion; bien entendu qu'ils respecteront la religion, le culte du pays et les lois qui y seront relatives.

VIII. Les sujets et citoyens de chacune des Parties Contractantes auront le droit de posséder, sur les territoires respectifs, toutes sortes de biens meubles et immeubles, de les exploiter en toute liberté, de même que d'en disposer comme il leur conviendra,

par vente, donation, échange, testament, ou de toute autre manière que ce soit. Egalement les sujets ou citoyens de l'un des deux Etats qui seraient héritiers de biens situés dans l'autre Etat pourront succéder sans empêchement à ceux desdits biens qui leur seraient échus *ab intestat*, ou par testament, et en disposer selon leur volonté, sauf à payer les mêmes droits de vente, succession ou autres que payeraient les nationaux dans des cas semblables.

IX. Si (ce qu'à Dieu ne plaise!) la paix entre les deux Hautes Parties Contractantes venait à être rompue, il sera accordé, de part et d'autre, un délai de 6 mois au moins, aux commerçants qui se trouveront sur les côtes, et d'un an à ceux qui seront établis dans l'intérieur du pays, pour régler leurs affaires et disposer de leurs propriétés. Un sauf-conduit leur sera, en outre, délivré pour s'embarquer dans tel port qu'ils désigneront à leur gré, à moins qu'il ne soit occupé ou assiégé par l'ennemi, et que leur propre sécurité, ou celle de l'Etat, ne s'oppose à leur départ par ce port, auquel cas il s'effectuera comme et par où il sera possible.

Tous les autres sujets ou citoyens ayant un établissement fixe et permanent dans les Etats respectifs, pour l'exercice de quelque profession ou industrie que ce soit, pourront conserver leurs établissements, et continuer à exercer leurs professions et industries, sans être inquiétés en aucune manière, et la possession pleine et entière de leur liberté et de leurs biens leur sera laissée tant qu'ils ne commettront aucune offense contre les lois du pays.

X. Dans aucun cas de guerre ou de collision entre les deux nations, les propriétés ou biens, de quelque nature qu'ils soient, des sujets ou citoyens respectifs, ne seront assujettis à aucune saisie ou séquestre, ni à d'autres charges ou impositions que celles exigées des nationaux. Les deniers dus par des particuliers, les fonds



requises pour justifier de l'origine et de la provenance des marchandises respectivement importées dans l'un des deux Etats seront également communes à toutes les autres nations.

XII. Les navires Français arrivant dans les ports du Salvador, ou en sortant, et les navires Salvadoriens à leur entrée en France, ou à leur sortie, ne seront assujettis à d'autres ni à de plus forts droits de tonnage, de phare, de port, de pilotage, de quarantaine ou autres affectant le corps du bâtiment, que ceux auxquels sont ou seront respectivement assujettis les navires nationaux.

Les droits de tonnage et autres qui se prélèvent en raison de la capacité des navires seront d'ailleurs perçus en France, pour les navires Salvadoriens, d'après le registre Salvadorien du navire, et réciproquement.

XIII. Les bâtiments Français au Salvador, et les bâtiments Salvadoriens en France, pourront décharger une partie de leur cargaison dans le port de prime abord, et se rendre ensuite avec le reste de cette cargaison dans d'autres ports du même Etat, soit pour y achever de débarquer leur chargement, soit pour y compléter celui de retour, en ne payant, dans chaque port, d'autres ou de plus forts droits que ceux que payent les bâtiments nationaux dans des circonstances analogues.

XIV. Les navires appartenant à des sujets ou citoyens de l'une des deux Parties Contractantes qui feront naufrage ou échoueront sur les côtes de l'autre, ou qui, par suite de relâche forcée ou d'avarie constatée, entreront dans les ports ou toucheront sur les côtes de l'autre, ne seront assujettis à aucun droit de navigation, quelle que soit la dénomination sous laquelle ils sont établis, sauf les droits de pilotage, phare et autres de même nature, représentant le salaire de services rendus par l'industrie privée, pourvu que ces navires n'effectuent ni chargement ni déchargement de marchandises. Cependant il leur sera permis de transborder sur d'autres bâtiments, ou même de déposer à terre et de mettre en magasin tout ou partie de leur chargement, pour éviter que les marchandises ne dépérissent, sans qu'on puisse exiger d'eux d'autres droits que ceux relatifs au loyer des navires, magasins et chantiers publics qui seraient nécessaires pour déposer les marchandises et réparer les avaries du bâtiment. Il leur sera, d'ailleurs, donné toute facilité et protection à cet effet, de même que pour se procurer des vivres et se mettre en état de continuer leur voyage sans aucun empêchement.

XV. Seront considérés comme Français dans le Salvador, et comme Salvadoriens en France, tous les navires qui navigueront sous pavillons respectifs, et qui seront porteurs de la patente et autres documents exigés, par la législation des deux Etats, pour justifier de la nationalité des bâtiments de commerce.

XVI. Les navires, marchandises et effets appartenant aux sujets,

ou citoyens respectifs, qui seraient pris par des pirates dans les limites de la juridiction de l'une des deux Parties Contractantes, ou en haute mer, et qui seraient conduits ou trouvés dans les ports, rivières, rades, baies de la domination de l'autre, seront remis à leurs propriétaires, en payant, s'il y a lieu, les frais de reprise, qui seront déterminés par les tribunaux compétents, lorsque le droit de propriété aura été prouvé devant lesdits tribunaux, et sur la réclamation qui devra en être faite dans le délai d'un an, par les parties intéressés, par leurs fondés de pouvoirs, ou par les agents des Gouvernements respectifs.

XVII. Les bâtiments de guerre de l'une des deux Puissances pourront entrer, séjourner et se radouber dans ceux des ports de l'autre Puissance dont l'accès est accordé à la nation la plus favorisée; ils y seront soumis aux mêmes règles, et y jouiront des mêmes avantages.

XVIII. S'il arrive que l'une des deux Parties Contractantes soit en guerre avec une Puissance tierce, l'autre Partie ne pourra, en aucun cas, autoriser ses nationaux à prendre ni accepter des commissions ou lettres de marque, pour agir hostilement contre la première ou pour inquiéter le commerce et les propriétés de ses sujets ou citoyens.

XIX. Les deux Hautes Parties Contractantes adoptent dans leurs relations mutuelles les principes suivants:

1°. La course est et demeure abolie;

2°. Le pavillon neutre couvre la merchandise ennemie, à l'exception de la contrebande de guerre;

3°. La marchandise neutre, à l'exception de la contrebande de guerre, n'est pas saisissable sous pavillon ennemi;

4°. Les blocus, pour être obligatoires, doivent être effectifs, c'est-

à sa nationalité et à son chargement. Les commandants seront responsables de toute exaction ou acte de violence qu'ils commettraient ou toléreraient dans cette occasion.

Il est également convenu que, dans aucun cas, la partie neutre ne pourra être obligée à passer à bord du bâtiment visiteur, ni pour exhiber ses papiers, ni pour toute autre cause que ce soit.

La visite ne sera permise qu'à bord des bâtiments qui navigueraient sans convoi. Il suffira, lorqu'ils seront convoyés, que le commandant déclare verbalement et sur sa parole d'honneur, que les navires placés sous sa protection et sous son escorte appartiennent à l'Etat dont ils arborent le pavillon, et qu'il déclare, lorsque ces navires auront pour destination un port ennemi, qu'ils ne portent pas de contrebande de guerre.

XXI. Dans le cas où l'un des deux pays serait en guerre avec quelqu'autre Puissance, les sujets et citoyens de l'autre pays pourront continuer leur commerce et navigation avec cette même Puissance, excepté avec les villes ou ports qui seraient réellement assiégés ou bloqués, sans que, toutefois, cette liberté de commerce et de navigation puisse, en aucun cas, s'étendre aux articles réputés contrebande de guerre, tels que bouches et armes à feu, armes blanches, projectiles, poudre, salpêtre, objets d'équipement militaires et tous instruments quelconques fabriqués à l'usage de la guerre.

Dans aucun cas, un bâtiment de commerce appartenant à des sujets ou citoyens de l'un des deux pays, qui se trouvera expédié pour un port bloqué par les forces de l'autre Etat, ne pourra être saisi, capturé et condamné, si préalablement il ne lui a été fait une notification ou signification de l'existence du blocus par quelque bâtiment faisant partie de l'escadre ou division de ce blocus, et, pour qu'on ne puisse alléguer une prétendue ignorance des faits, et que le navire qui aura été dûment averti soit dans le cas d'être capturé, s'il vient ensuite à se présenter devant le même port pendant le temps que durera le blocus, le commandant du bâtiment de guerre qui le rencontrera d'abord devra apposer son visa sur les papiers de ce navire, en indiquant le jour, le lieu ou la hauteur où il l'aura visité et lui aura fait la signification précitée avec les formalités qu'elle exige.

XXII. Chacune des deux Hautes Parties Contractantes pourra établir des Consuls dans les territoires et domaines de l'autre pour la protection du commerce, mais ces agents n'entreront en fonctions et ne jouiront des droits, priviléges et immunités inhérents à leurs charges qu'après avoir obtenu l'exequatur du Gouvernement territorial, lequel se réserve, d'ailleurs, le droit de déterminer les résidences où il lui conviendra d'admettre les Consuls. Il est bien entendu que, sous ce rapport, les deux Gouvernements ne s'oppose-

ront respectivement aucune restriction qui ne soit commune dans leur pays à toutes les nations.

XXIII. Les Consuls-Généraux, Consuls et Vice-Consuls, ainsi que les Elèves-Consuls, Chanceliers et Secrétaires attachés à leur mission, jouiront, dans les deux pays, de tous priviléges, exemptions et immunités qui pourront être accordés dans leur résidence aux agents du même rang de la nation la plus favorisée, et notamment de l'exemption des logements militaires et de celle de toutes les contributions directes, tant personnelles que mobilières ou somptuaires, à moins, toutefois, qu'ils ne soient citoyens du pays où ils résident ou qu'ils ne deviennent, soit propriétaires, soit possesseurs de biens immeubles, ou enfin qu'ils ne fassent le commerce, auxquels cas, ils seront soumis aux mêmes taxes, charges ou impositions que les autres particuliers.

Ces agents jouiront, dans tous les cas, de l'immunité personnelle; ils ne pourront être arrêtés, traduits en jugement ou mis en prison, excepté dans le cas de crime atroce, et, s'ils sont négociants, la contrainte par corps ne pourra leur être appliquée que pour les seuls faits de commerce, et non pour causes civiles.

Ils pourront placer au-dessus de la porte extérieure de leur maison un tableau aux armes de leur nation avec une inscription portant: " Consulat de France," " Consulat du Salvador," et arborer aux jours de solennités publiques ou nationales, sur la maison Consulaire, un pavillon aux couleurs de leur pays. Ces marques extérieures ne seront d'ailleurs jamais considérées comme constituant un droit d'asile.

Les Consuls généraux, Consuls et Vice-Consuls, non plus que les élèves Consuls, Chanceliers et Secrétaires Attachés à leur mission ne pourront être sommés de comparaître devant les tribunaux du



et l'exequatur du Gouvernement territorial. Ces agents pourront être choisis parmi les sujets ou citoyens des deux Etats, et même parmi les étrangers.

XXVI. Les Consuls respectifs pourront, au décès de leurs nationaux morts sans avoir testé ni désigné d'exécuteurs testamentaires,

1°. Apposer les scellés, soit d'office, soit à la réquisition des Parties intéressées, sur les effets mobiliers et les papiers du défunt, en prévenant d'avance, de cette opération, l'autorité locale compétente, qui pourra y assister, et même, si elle le juge convenable, croiser de ses scellés ceux apposés par le Consul, et dès lors ces doubles scellés ne seront levés que de concert;

2°. Dresser aussi, en présence de l'autorité compétente si elle croit devoir s'y présenter, l'inventaire de la succession;

3°. Faire procéder, suivant l'usage du pays, à la vente des effets mobiliers dépendants de la succession, lorsque lesdits meubles pourront se détériorer par l'effet du temps, ou que le Consul croira leur vente utile aux intérêts des héritiers du défunt;

Et 4°. Administrer ou liquider personnellement, ou nommer, sous leur responsabilité, un agent pour administrer et liquider ladite succession, sans que d'ailleurs l'autorité locale ait à intervenir dans ces nouvelles opérations.

Mais lesdits Consuls seront tenus de faire annoncer la mort de leurs nationaux dans une des gazettes qui se publient dans l'étendue de leur arrondissement, et ne pourront faire délivrance de la succession et de son produit aux héritiers légitimes ou à leurs mandataires, qu'après avoir fait acquitter toutes les dettes que le défunt pourrait avoir contractées dans le pays, ou qu'autant qu'une année sera écoulée depuis la date de la publication du décès, sans qu'aucune réclamation ait été présentée contre la succession.

XXVII. Les Consuls respectifs seront exclusivement chargés de la police interne des navires de commerce de leur nation, et les autorités locales ne pourront y intervenir qu'autant que les désordres survenus seraient de nature à troubler la tranquillité publique, soit à terre, soit à bord des bâtiments.

Mais en tout ce qui regarde la police des ports, le chargement et le déchargement des navires, la sûreté des marchandises, biens et effets, les sujets ou citoyens des deux Etats seront respectivement soumis aux lois et statuts du territoire.

XXVIII. Les Consuls respectifs pourront faire arrêter et renvoyer, soit à bord, soit dans leurs pays, les matelots qui auraient déserté des bâtiments de leur nation. A cet effet, ils s'adresseront par écrit aux autorités locales compétentes, et justifieront par l'exhibition du registre ou du rôle d'équipage, ou, si ledit navire était parti, par la copie des pièces dûment certifiée par eux, que les

hommes qu'ils réclament faisaient partie de cet équipage. Sur cette demande ainsi justifiée, la remise ne pourra leur être refusée; il leur sera donné, de plus, toute aide et assistance pour la recherche, saisie et arrestation desdits déserteurs, qui seront eux-mêmes détenus et gardés dans les prisons du pays, à la réquisition et aux frais des Consuls, jusqu'à ce que ces agents aient trouvé une occasion de les livrer ou de les faire partir. Si pourtant cette occasion ne se présentait pas dans un délai de 3 mois à compter du jour de l'arrestation, les déserteurs seraient mis en liberté, et ne pourraient plus être arrêtés pour la même cause.

XXIX. Toutes les fois qu'il n'y aura pas de stipulations contraires entre les armateurs, les chargeurs et les assureurs, les avaries que les navires des deux pays auraient éprouvées en mer, en se rendant dans les ports respectifs, seront réglées par les Consuls de leur nation, à moins cependant que les habitants du pays où résideraient des Consuls ne se trouvassent intéressés dans ces avaries; car, dans ce cas, elles devraient être réglées par l'autorité locale, toutes les fois qu'un compromis amiable ne sera pas intervenu entre les parties.

XXX. Toutes les opérations relatives au sauvetage des navires Français naufragés ou échoués sur les côtes du Salvador seront dirigées par les Consuls de France, et, réciproquement, les Consuls Salvadoriens dirigeront les opérations relatives au sauvetage des navires de leur nation naufragés ou échoués sur les côtes de France.

L'intervention des autorités locales aura seulement lieu dans les deux pays pour maintenir l'ordre, garantir les intérêts des sauveteurs, s'ils sont étrangers aux équipages naufragés, et assurer l'exécution des dispositions à observer pour l'entrée et la sortie des marchandises sauvées. En l'absence et jusqu'à l'arrivée des Consuls ou Vice-Consuls, les autorités locales devront, d'ailleurs, prendre



deux Etats jouiront, de plein droit, dans l'autre, des franchises, priviléges et immunités quelconques consentis ou à consentir en faveur de la nation la plus favorisée, et ce, gratuitement, si la concession est gratuite, ou avec la même compensation, si la concession est conditionnelle.

Il est toutefois convenu qu'en parlant de la nation la plus favorisée, les nations Espagnole et Hispano-Américaines ne devront pas servir de terme de comparaison, même quand elles viendraient à être privilégiées au Salvador en matière de commerce.

XXXIII. Dans les cas où l'une des Parties Contractantes jugerait que quelques-unes des stipulations du présent Traité ont été enfreintes à son préjudice, elle devrait d'abord présenter à l'autre Partie un exposé des faits ainsi qu'une demande en réparation, accompagnée des documents et des preuves nécessaires pour établir la légitimité de sa plainte, et elle ne pourrait autoriser de représailles ni se porter elle-même à des actes d'hostilité, qu'autant que la réparation demandée aurait été refusée ou arbitrairement différée.

XXXIV. Le présent Traité sera en vigueur pendant 10 ans, à compter du jour de l'échange des ratifications, et si, 12 mois avant l'expiration de ce terme, ni l'une ni l'autre des deux Parties n'annonce, par une déclaration officielle, son intention d'en faire cesser l'effet, le présent Traité restera encore obligatoire pendant une année, et ainsi de suite, jusqu'à l'expiration de l'année qui suivra la déclaration officielle en question.

XXXV. Le présent Traité, composé de 35 Articles, sera ratifié, et les ratifications en seront échangées dans la ville de Guatemala dans le délai d'un an, ou plus tôt si faire se peut.

En foi de quoi, les Plénipotentiaires ci-dessus nommés l'ont signé et y ont apposé le cachet de leurs armes.

Guatemala, le 2 Janvier, 1858.

(L.S.) A. DE BOTMILIAU.

(L.S.) JOSE ANTONIO ORTIZ URRUELA.

II. Notre Ministre et Secrétaire d'Etat au Département des Affaires Etrangères est chargé de l'exécution du présent décret.

Fait à Paris, le 3 Mars, 1860.

Par l'Empereur: NAPOLEON.

Le Ministre des Affaires Etrangères, THOUVENEL.

DECRET de l'Empereur des Français, portant promulgation du Traité de Paix, d'Amitié et de Commerce, conclu à Yédo, le 9 Octobre, 1858, *entre la France et la Japan.—Paris, le* 21 *Mars,* 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, á tous présents et à venir, Salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères,

Avons décrété et décrétons ce qui suit:

ART. I. Un Traité de Paix, d'Amitié et de Commerce, suivi de 7 règlements commerciaux, ayant été signé à Yédo, le 9 Octobre, 1858, entre la France et le Japon, et les ratifications de cet acte ayant éte échangées, le 22 Septembre, 1859, ledit Traité, dont la teneur suit, recevra sa pleine et entière exécution.

TRAITE.

Sa Majesté l'Empereur des Français et Sa Majesté l'Empereur du Japon, voulant établir, entre les deux Empires, les rapports les plus intimes et les plus bienveillants, et faciliter les relations commerciales entre leurs sujets respectifs, ont résolu, pour régulariser l'existence de ces relations, pour en favoriser le développement et en perpétuer la durée, de conclure un Traité de Paix, d'Amitié et de Commerce, basé sur l'intérêt réciproque des deux pays, et ont, en conséquence, nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur des Français, le Sieur Jean-Baptiste-Louis Baron Gros, Grand Officier de l'Ordre Impérial de la Légion d'Honneur &c.;



Japon qui, en vertu du présent Traité, sont ouverts au commerce Français.

L'Agent Diplomatique et le Consul-Général de France au Japon auront le droit de voyager librement dans toutes les parties de l'Empire.

Sa Majesté l'Empereur du Japon pourra, de son côté, envoyer un Agent Diplomatique, qui résidera à Paris, et des Consuls ou des Agents Consulaires, qui résideront dans les ports de l'Empire Français.

L'Agent Diplomatique et le Consul-Général du Japon en France auront le droit de voyager librement dans toutes les parties de l'Empire Français.

III. Les villes et ports de Hacodadi, Kanagáoua et Nagasaki seront ouverts au commerce et aux sujets Français, à dater du 15 Août, 1859, et les villes et ports dont les noms suivent le seront aux époques déterminées ci-après:

Néé-é-gata, ou si cette ville n'a pas un port d'un accès convenable, un autre port situé sur la côte ouest de Nipon, sera ouvert, à dater du 1er Janvier, 1860, et Hiógo, à partir du 1er Janvier, 1863.

Dans toutes ces villes et dans leurs ports, les sujets Français pourront résider en permanence dans l'emplacement déterminé à cet effet; ils auront le droit d'y affermer des terrains, et d'y acheter des maisons, et ils pourront y bâtir des habitations et des magasins; mais aucune fortification ou place forte militaire n'y sera élevée sous prétexte de construction de hangars ou d'habitations, et, pour s'assurer que cette clause est fidèlement exécutée, les autorités Japonaises compétentes auront le droit d'inspecter, de temps à autre, les travaux de toute construction qui serait élevée, changée ou réparée dans ces lieux.

L'emplacement que les sujets Français occuperont, et dans lequel ils pourront construire leurs habitations, sera déterminé par le Consul Français, de concert avec les autorités Japonaises compétentes de chaque lieu; il en sera de même pour les règlements de port, et si le Consul et les autorités locales ne parviennent pas à s'entendre à ce sujet, la question sera soumise à l'Agent Diplomatique Français et aux autorités Japonaises, qui la termineront de commun accord.

Autour des lieux où résideront les sujets Français, il ne sera élevé ni placé par les autorités Japonaises, ni mur, ni barrière, ni clôture, ni tout autre obstacle qui pourrait entraver la libre sortie, ou la libre entrée de ces lieux.

Les sujets Français seront libres de se rendre où bon leur semblera dans l'enceinte formée par les limites désignées ci-après:

De Kanagáoua, ils pourront se rendre jusqu'à la rivière Locoo, qui

se jette dans la baie de Yédo, entre Kouasaki et Sinagava, et, dans toute autre direction, jusqu'à une distance de 10 ris.

D'Hacodadi, ils pourront aller, à une distance de 10 ris, dans toutes les directions.

De Hiogo, à 10 ris, aussi dans toutes les directions, excepté vers Kióto, ville dont on ne pourra s'approcher qu'à une distance de 10 ris. Les équipages des bâtiments Français qui se rendront à Hiogo ne pourront pas traverser la rivière Inagara, qui se jette dans la baie de Cett's, entre Hiogo et Osaca.

Ces distances seront mesurées par terre, à partir du Goyosso ou Yacousio de chacun des ports susnommés, le ri équivalant à 3,910 mètres.

A Nagasaki, les sujets Français pourront se rendre partout dans le domaine impérial du voisinage.

Les limites de Néé-é-gata, ou du port qui pourrait lui être substitué, seront déterminées par l'Agent Diplomatique Français, de concert avec les autorités compétentes du Japon.

A partir du 1er Janvier, 1862, les sujets Français seront autorisés à resider dans la ville de Yédo, et, à dater du 1er Janvier, 1863, dans la ville d'Osaca, mais seulement pour y faire le commerce. Dans chacune de ces deux villes, un emplacement convenable, dans lequel les Français pourront affermer des maisons, sera déterminé par l'Agent Diplomatique Français, d'accord avec le Gouvernement Japonais, et ils conviendront aussi des limites que les Français ne devront pas franchir autour de ces villes.

IV. Les sujets Français au Japon auront le droit d'exercer librement leur religion, et, à cet effet, ils pourront y élever, dans le terrain destiné à leur résidence, les édifices convenables à leur culte, comme églises, chapelles, cimetières, &c.

Le Gouvernement Japonais a déjà aboli dans l'empire l'usage



Japonais devra se rendre au Consulat de France et y exposer sa réclamation.

Le Consul examinera ce qu'elle aura de fondé, et cherchera à arranger l'affaire à l'amiable. De même, si un Japonais avait à se plaindre d'un sujet Français, le Consul de France l'écoutera avec intérêt, et cherchera à arranger l'affaire à l'amiable.

Si des difficultés surviennent qui ne puissent pas être aplanies ainsi par le Consul, ce dernier aura recours à l'assistance des autorités Japonaises compétentes, afin que, de concert avec elles, il puisse examiner sérieusement l'affaire et lui donner une solution équitable.

VIII. Dans tous les ports du Japon ouverts au commerce, les sujets Français seront libres d'importer, de leur propre pays ou des ports étrangers, et d'y vendre, d'y acheter et d'en exporter pour leurs propres ports, ou pour ceux d'autres pays, toute espèce de marchandises qui ne seraient pas de contrebande, en payant les droits stipulés dans le tarif annexé au présent Traité, et sans avoir à supporter d'autre charge.

A l'exception des munitions de guerre, qui ne pourront être vendues qu'au Gouvernement Japonais et aux étrangers, les Français pourront librement acheter des Japonais et leur vendre tous les articles qu'ils auraient à vendre ou à acheter, et cela sans l'intervention d'aucun employé Japonais, soit dans cette vente ou dans cet achat, soit aussi en effectuant ou en recevant le payement de ces transactions.

Tout Japonais pourra acheter, vendre, garder et faire usage de tout article qui lui serait vendu par des sujets Français.

Le Gouvernement Japonais n'apportera aucun obstacle à ce que les Français résidant au Japon puissent prendre à leur service des sujets Japonais, et les employer à toute occupation que les lois ne prohibent pas.

IX. Les Articles réglementaires de commerce annexés au présent Traité seront considérés comme en faisant partie intégrante, et ils seront également obligatoires pour les deux Hautes Parties Contractantes qui l'ont signé.

L'Agent Diplomatique Français au Japon, de concert avec les fonctionnaires qui pourraient être désignés à cet effet par le Gouvernement Japonais, auront le pouvoir d'établir, dans tous les ports ouverts au commerce, les règlements qui seraient nécessaires pour mettre à exécution les stipulations des Articles réglementaires de commerce ci-annexés.

X. Les autorités Japonaises, dans chaque port, adopteront telles mesures qui leur paraîtront le plus convenables pour prévenir la fraude et la contrebande.

Toutes les amendes et les confiscations imposées par suite d'in-

fractions au présent Traité et aux règlements commerciaux qui y sont annexés appartiendront au Gouvernement de Sa Majesté l'Empereur du Japon.

XI. Tout bâtiment marchand Français arrivant devant l'un des ports ouverts du Japon sera libre de prendre un pilote pour entrer dans le port, et, de même, lorsqu'il aura acquitté toutes les charges, et tous les droits qui lui auraient été légalement imposés, et qu'il sera prêt à partir, il sera libre de prendre un pilote pour sortir du port.

XII. Tout négociant Français qui aurait importé des marchandises dans l'un des ports ouverts du Japon, et payé les droits exigés, pourrait obtenir, des chefs de la douane Japonaise, un certificat constatant que ce payement a eu lieu, et il lui serait permis alors d'exporter son chargement dans l'un des autres ports ouverts du Japon, sans avoir à payer de droit additionnel d'aucune espèce.

XIII. Toutes les marchandises importées dans les ports ouverts du Japon par des sujets Français, et qui auraient payé les droits fixés par ce Traité, pourront être transportées par les Japonais dans toutes les parties de l'empire, sans avoir à payer aucune taxe ni aucun droit de transit, de régie ou de toute autre nature.

XIV. Toute monnaie étrangère aura cours au Japon, et passera pour la valeur de son poids, comparé à celui de la monnaie Japonaise analogue.

Les sujets Français et Japonais pourront librement faire usage des monnaies Japonaises ou étrangères dans tous les payements qu'ils auraient à se faire réciproquement.

Comme il s'écoulera quelque temps jusqu'au moment où le Gou-

sur les côtes de l'Empire du Japon, ou s'il était forcé de chercher un refuge dans quelque port des domaines de Sa Majesté l'Empereur du Japon, les autorités Japonaises compétentes, ayant connaissance du fait, donneraient immédiatement à ce bâtiment toute l'assistance possible. Les personnes du bord seraient traitées avec bienveillance, et on leur fournirait, si cela était nécessaire, les moyens de se rendre au consulat Français le plus voisin.

XVII. Des fournitures à l'usage des bâtiments de guerre Français pourront être débarquées à Kanagáoua, à Hacodadi et à Nagasaki, et placées en magasins à terre, sous la garde d'un employé du Gouvernement Français, sans avoir à payer de droits; mais si ces fournitures étaient vendues à des Japonais ou à des étrangers, l'acquéreur payerait, aux autorités Japonaises compétentes, la valeur des droits qui y seraient applicables.

XVIII. Si quelque Japonais venait à ne pas payer ce qu'il doit à des sujets Français, ou s'il se cachait frauduleusement, les autorités Japonaises compétentes feraient tout ce qui dépendrait d'elles pour le traduire en justice, et pour obtenir de lui le payement de sa dette, et si quelque sujet Français se cachait frauduleusement, ou manquait à payer ses dettes à un Japonais, les autorités Françaises feraient de même tout ce qui dépendrait d'elles pour amener le délinquant en justice, et le forcer à payer ce qu'il devrait.

Ni les autorités Françaises ni les autorités Japonaises ne seront responsables du payement de dettes contractées par des sujets Français ou Japonais.

XIX. Il est expressément stipulé que le Gouvernement Français et ses sujets jouiront librement, à dater du jour où le présent Traité sera mis en vigueur, de tous les priviléges, immunités et avantages qui ont été ou qui seraient garantis à l'avenir, par Sa Majesté l'Empereur du Japon, au Gouvernement ou aux sujets de toute autre nation.

XX. Il est également convenu que chacune des deux Hautes Parties Contractantes pourra, après en avoir prévenu l'autre une année d'avance, à dater du 15 Août, 1872, ou après cette époque, demander la révision du présent Traité pour y faire les modifications ou y insérer les amendements que l'expérience aurait démontrés nécessaires.

XXI. Toute communication officielle adressée par l'agent diplomatique de Sa Majesté l'Empereur des Français aux autorisés Japonaises sera dorénavant écrite en Français. Cependant, pour faciliter la prompte expédition des affaires, ces communications, ainsi que celles des Consuls de France au Japon, seront, pendant une période de 5 années, à dater de la signature du présent Traité, accompagnées d'une traduction Japonaise.

XXII et dernier. Le présent Traité de Paix, d'Amitié et

de Commerce sera ratifié par Sa Majesté l'Empereur des Français et par Sa Majesté l'Empereur du Japon, et l'échange de ces ratifications aura lieu à Yédo, dans l'année qui suivra le jour de la signature.

Il est convenu entre les Hautes Parties Contractantes, qu'au moment où le Traité sera signé, le Plénipotentiaire Français remettra aux Plénipotentiaires Japonais deux textes en Français du présent Traité, comme, de leur côté, les Plénipotentiaires Japonais en remettront au Plénipotentiaire de France deux textes en Japonais. Ces 4 documents ont le même sens et la même portée; mais, pour plus de précision, il a été convenu qu'il serait annexé à chacun d'eux une version en langue Hollandaise, qui en serait la traduction exacte, attendu que, de part et d'autre, cette langue peut être facilement comprise, et il est également convenu que, dans le cas où une interprétation différente serait donnée au même Article Français et Japonais, ce serait alors la version Hollandaise qui ferait foi.

Il est aussi convenu que la version Hollandaise ne différera, en aucune manière, quant au fond, des textes Hollandais qui font partie des Traités conclus récemment par le Japon avec les Etats-Unis d'Amérique, l'Angleterre et la Russie.

Dans le cas où l'échange des ratifications n'aurait pas eu lieu avant le 15 Août, 1859, le présent Traité n'en serait pas moins mis à exécution à dater de ce jour-là.

En foi de quoi, les Plénipotentiaires respectifs ont signé le présent Traité et y ont apposé leurs cachets.

Fait à Yédo, le 9 Octobre, 1858, correspondant au 3me jour du 9me mois de la 5me année du Nengo Anchei, dite l'année du Cheval.

(L.S.) BARON GROS.

[Les signatures des 6 Plénipotentiaires Japonais.]

REGLEMENTS COMMERCIAUX.

Premier Reglement.

Dans les 48 heures qui suivront l'arrivée d'un bâtiment Français dans l'un des ports Japonais ouverts au commerce Français, le capitaine ou le commandant de ce bâtiment remettra à la douane Japonaise le reçu du Consul de France, qui prouvera qu'on a déposé chez lui tous les papiers du bord, les connaissements, &c., et le capitaine ou le commandant annoncera alors l'entrée de son navire en douane, en remettant une déclaration écrite, qui fera connaître le nom du navire et celui du port d'où il provient, son tonnage, le nom de son capitaine ou commandant, le nom des passagers, s'il y en a, et le nombre de personnes qui composent son équipage. Cette déclaration sera certifiée véritable par le capitaine

ou le commandant, et sera signée par lui. Il déposera en même temps un manifeste de son chargement, indiquant le nombre et la marque des colis qui le composent, leur contenu tel qu'il est détaillé dans les connaissements, avec le nom de la personne ou des personnes auxquelles ces colis sont adressés. Une liste des provisions du bord sera jointe au manifeste. Le capitaine ou le commandant certifiera que ce manifeste contient la description exacte de toute la cargaison et des provisions du bâtiment, et le signera de son nom.

Si une erreur est reconnue comme ayant été commise dans le manifeste, elle pourra être corrigée dans les 24 heures (dimanches exceptés), sans qu'elle puisse donner lieu au payement d'aucune amende; mais si une altération ou une déclaration tardive dans le manifeste était faite après ce laps de temps, une amende de 81 francs serait imposée au délinquant.

Toutes les marchandises non déclarées dans le manifeste payeront un double droit au moment de leur débarquement.

Tout capitaine ou commandant de bâtiment marchand Français qui négligerait de déclarer l'entrée de son navire en douane Japonaise dans le temps prescrit par ce règlement payera une amende de 324 francs par chaque jour de retard apporté à la déclaration à faire.

Second Reglement.

La douane Japonaise aura le droit de placer ses employés à bord de tout bâtiment entré dans le port (les navires de guerre exceptés).

Tous ces employés de la douane seront traités avec égard, et toutes les facilités qu'on pourra leur accorder leur seront données.

Aucune marchandise ne sera débarquée avant le lever du soleil, ni après son coucher, sans une permission spéciale des autorités de la douane, et la cale et les autres issues du bâtiment qui mènent au lieu où se trouve renfermée la cargaison seront gardées par les officiers Japonais pendant les heures comprises entre le coucher et le lever du soleil, au moyen de scellés, de serrures ou d'autres fermetures, et si, sans en avoir la permission, quelque individu ouvrait l'une de ces issues qui auraient été fermées, ou brisait les scellés, les serrures ou les autres fermetures apposées par les employés de la douane Japonaise, il serait passible d'une amende de 324 francs pour chaque infraction.

Toutes les marchandises qui seraient débarquées d'un bâtiment sans avoir été légalement déclarées à la douane Japonaise, ainsi qu'il est dit ci-dessus, seraient confisquées après enquête et preuve acquise.

Les colis de marchandises disposées avec l'intention de frauder le

revenu du Japon, en cachant des articles de valeur qui ne seraient pas déclarés dans le manifeste d'entrée, seront confisqués.

Si quelque bâtiment Français faisait la contrebande ou cherchait à introduire des marchandises dans les ports du Japon qui sont encore fermés, ces marchandises seraient confisquées au profit du Gouvernement Japonais, et le bâtiment serait imposé à une amende de 5,400 francs pour chaque contravention.

Les bâtiments qui auraient besoin de réparations pourront, à cet effet, débarquer leur cargaison sans avoir à payer aucun droit. Toutes les marchandises ainsi débarquées seraient placées sous la garde des autorités Japonaises, et toutes les dépenses à faire pour magasinage, travaux et surveillance seraient payées. Mais si une partie de cette cargaison était vendue, les droits légaux devraient être payés pour la partie dont ou aurait disposé.

Les cargaisons pourront être transbordées sur un autre bâtiment mouillé dans le même port sans avoir à payer aucun droit; mais tout transbordement devra être fait sous la surveillance des employés Japonais, et après que les autorités de la douane auront acquis la preuve de la bonne foi de la transaction, et lorsque ces autorités auront aussi donné la permission d'opérer le transbordement.

L'importation de l'opium étant prohibée, tout bâtiment Français arrivant au Japon pour y faire le commerce, et ayant plus de 3 catties d'opium à bord, pourra voir le surplus de cette quantité confisqué et détruit par les autorités Japonaises, et tout individu faisant ou essayant de la contrebande d'opium sera passible d'une amende de 81 francs pour chaque cattie d'opium entré ainsi en contrebande.

Troisieme Reglement.



vérifier un ou plusieurs de ces colis ainsi déclarés, et à cet effet ils les feront transporter à la douane, s'ils le veulent ; mais cette visite ne devra causer aucune dépense à l'introducteur, ni porter préjudice aux marchandises, et après leur examen les Japonais replaceront ces marchandises dans les colis, et autant que possible dans l'état où elles se trouvaient primitivement. Cette visite devra être faite sans perte de temps.

Si quelque propriétaire ou introducteur de marchandises s'apercevait qu'elles ont été avariées pendant le voyage d'importation, avant qu'elles lui aient été délivrées, il pourra notifier aux autorités de la douane les avaries survenues, et ces marchandises avariées seront évaluées par deux ou par plusieurs personnes compétentes et désintéresées, qui, après mûr examen, délivreront un certificat faisant connaître le montant à tant pour cent des avaries éprouvées dans chaque colis séparément, en le décrivant par ses marques et numéros. Ce certificat sera signé par les experts en présence des employés de la douane, et l'introducteur annexera ce certificat à son manifeste en y faisant les réductions convenables ; mais ce fait n'empêchera pas les employés de la douane de s'approprier ces marchandises selon les formes indiquées dans l'Article XV du présent Traité, auquel ces règlements sont annexés.

Lorsque les droits auront été payés, le propriétaire recevra l'autorisation de reprendre ses marchandises, soit qu'elles se trouvent à la douane, soit qu'elles n'aient pas quitté le bord.

Toutes les marchandises destinées à être exportées passeront par les douanes Japonaises avant d'être transportées à bord. La déclaration d'entrée sera faite par écrit et contiendra le nom du bâtiment sur lequel elles devront être exportées, avec le nombre des colis, leur marque et la déclaration de la valeur de leur contenu. La personne qui exportera ces marchandises certifiera par écrit que sa déclaration est un exposé sincère de toutes les marchandises dont elle fait mention, et il la signera.

Toutes les marchandises qui seraient embarquées à bord d'un bâtiment pour être exportées avant d'avoir passé par la douane, et tous les colis qui contiendraient des articles prohibés, seront saisis par le Gouvernement Japonais.

Il ne sera pas nécessaire de faire passer en douane les provisions destinées à l'usage des bâtiments Français, de leurs équipages, et de leurs passagers, ni les effets d'habillement des passagers.

Quatrieme Reglement.

Les bâtiments Français qui voudront être expédiés par la douane la préviendront 24 heures d'avance et, à l'expiration de ce terme, ils auront le droit de recevoir leurs expéditions ; mais si elles leur

étaient refusées par la douane, les employés de cette administration devraient immédiatement en informer le capitaine ou le consignataire du bâtiment, et lui faire connaître les raisons de ce refus ; ils feront la même déclaration au Consul.

Les navires de guerre Français pourront librement entrer dans le port, et en sortir sans avoir à présenter de manifeste. Les employés de la douane et de la police n'auront pas le droit de visiter ces bâtiments. Quant aux navires Français qui porteraient les malles, ils devront entrer en douane et y être expédiés le même jour, et ils n'auront à présenter de manifeste que pour les passagers et les marchandises qu'ils auraient à débarquer.

Les baleiniers Français relâchant pour avoir des provisions, et les bâtiments Français en détresse, ne seront pas tenus de fournir un manifeste de leur cargaison ; mais, s'ils veulent plus tard faire le commerce, ils auront à en donner un en observant les formalités prescrites par le premier règlement.

Le mot " bâtiment," quelle que soit la place qu'il occupe dans ce Traité et dans son annexe, signifiera toujours navire, trois-mâts, barque, brick, goëlette, sloop ou bâtiment à vapeur.

Cinquieme Reglement.

Tout individu qui signerait une fausse déclaration ou un faux certificat dans l'intention de frauder le revenu du Japon payera une amende de 675 francs pour chacune des infractions qu'il aurait commise.

Sixieme Reglement.

Aucun droit de tonnage ne sera perçu sur les bâtiments Français dans les ports du Japon ; mais les taxes suivantes seront payées par

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imprimés non destinés à être vendus, mais étant la propriété de personnes venant résider au Japon.

Deuxième Classe.

Un droit de 5 pour cent sera payé sur les articles suivants :

Tous les matériaux employés à la construction, au gréement, aux réparations ou à l'équipement des bâtiments ;

Les apparaux de toute espèce pour la pêche de la baleine, les provisions salées de toute sorte, le pain et ses analogues, les animaux vivants de toute espèce, le charbon, les bois de construction pour maisons, le riz, le millet, les machines à vapeur, le zinc, le plomb, l'étain, la soie écrue, les étoffes de coton et de laine.

Troisième Classe.

Un droit de 35 pour cent sera payé sur toutes les liqueurs énivrantes, soit qu'elles aient été préparées par distillation, par fermentation ou de toute autre manière.

Quatrième Classe.

Toutes les marchandises non comprises dans les classes précédentes payeront un droit de 20 pour cent.

Tous les articles de production Japonaise qui seront exportés comme chargement payeront un droit de 5 pour cent, à l'exception de l'or ou de l'argent monnayés et du cuivre en barre.

Le riz et le blé récoltés au Japon ne seront pas exportés comme chargement; mais tous les sujets Français résidant au Japon, et les bâtiments Français pour leurs équipages et pour leurs passagers, pourront recevoir une provision suffisante de ces denrées.

Les grains étrangers apportés dans l'un des ports ouverts du Japon par un bâtiment Français pourront être exportés sans obstacle, s'ils n'ont pas été en partie débarqués.

Le Gouvernement Japonais vendra de temps à autre aux enchères publiques une certaine quantité de cuivre formant l'excédant de ses exploitations.

Cinq années après l'ouverture du port de Kanagáoua, les droits d'importation et d'exportation pourront être modifiés, si l'un ou l'autre des deux Gouvernements de France et du Japon le désire.

Fait à Yédo, en 4 expéditions, le 9 Octobre, 1858, correspondant au 3me jour du 9me mois de la 5me année du Nengo Anchei, dite l'année du Cheval.

(L.S.) BARON GROS.

[Les signatures des 6 Plénipotentiaires Japonais.]

II. Notre Ministre et Secrétaire d'Etat au Département des Affaires Etrangères est chargé de l'exécution du présent Décret.

Fait à Paris, le 21 Mars, 1860.

Par l'Empereur: NAPOLEON.

Le Ministre des Affaires Etrangères, THOUVENEL.

DECRET de l'Empereur des Français, portant promulgation du Traité relatif à la Réunion de la Savoie et de l'Arrondissement de Nice à la France, conclu le 24 Mars, 1860, entre la France et la Sardaigne.—Fontainebleau, le 11 Juin, 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, Salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères,

Avons décrété et décrétons ce qui suit:

ART. I. Un Traité relatif à la réunion de la Savoie, et de l'arrondissement de Nice à la France ayant été conclu, le 24 Mars dernier, entre la France et la Sardaigne, et les ratifications de cet acte ayant été échangées à Turin, le 30 du même mois, ledit Traité, dont la teneur suit, recevra sa pleine et entière exécution.

TRAITE.

Au nom de la Très-Sainte et Indivisible Trinité.

Sa Majesté l'Empereur des Français ayant exposé les considéra-



Lazare, &c., Conseiller en son Conseil d'Etat, son Ministre Plénipotentiaire et Directeur des Affaires politiques au Département des Affaires Etrangères ;

Et Sa Majesté le Roi de Sardaigne, son Excellence M. le Comte Camille Benso de Cavour, Chevalier de son Ordre Suprême de la Très-Sainte-Annonciade, Chevalier Grand-Croix décoré du Grand Cordon de l'Ordre Royal des Saints Maurice et Lazare, Chevalier de l'Ordre Civil de Savoie, Chevalier Grand-Croix de l'Ordre Impérial de la Légion d'Honneur et des Ordres de Saint-Alexandre Newsky de Russie en diamants, du Medjidié de Turquie, du Lion et du Soleil de Perse, Grand Cordon des Ordres de Léopold de Belgique, de Charles III d'Espagne, du Sauveur de Grèce, &c., Président du Conseil et Ministre des Affaires Etrangères, Notaire de la Couronne, &c. ; et son Excellence M. le Chevalier Charles-Louis Farini, Chevalier de l'Ordre Suprême de la Très-Sainte-Annonciade et des Ordres des Saints Maurice et Lazare et du Mérite Civil de Savoie, son Ministre Secrétaire d'Etat pour les Affaires de l'Intérieur ;

Lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivants :

Art. I. Sa Majesté le Roi de Sardaigne consent à la réunion de la Savoie et de l'arrondissement de Nice (circondario di Nizza) à la France, et renonce pour lui et tous ses descendants et successeurs, en faveur de Sa Majesté l'Empereur des Français, à ses droits et titres sur lesdits territoires. Il est entendu entre leurs Majestés que cette réunion sera effectuée sans nulle contrainte de la volonté des populations, et que les Gouvernements de l'Empereur des Français et du Roi de Sardaigne se concerteront le plus tôt possible sur les meilleurs moyens d'apprécier et de constater les manifestations de cette volonté.

II. Il est également entendu que Sa Majesté le Roi de Sardaigne ne peut transférer les parties neutralisées de la Savoie qu'aux conditions auxquelles il les possède lui-même, et qu'il appartiendra à Sa Majesté l'Empereur des Français de s'entendre à ce sujet, tant avec les Puissances représentées au Congrès de Vienne qu'avec la Confédération Helvétique, et de leur donner les garanties qui résultent des stipulations rappelées dans le présent Article.

III. Une Commission Mixte déterminera, dans un esprit d'équité, les frontières des deux Etats, en tenant compte de la configuration des montagnes et de la nécessité de la défense.

IV. Une ou plusieurs Commissions Mixtes seront chargées d'examiner et de résoudre, dans un bref délai, les diverses questions incidentes auxquelles donnera lieu la réunion, telles que la fixation de la part contributive de la Savoie et de l'arrondissement de Nice (circondario di Nizza) dans la dette publique de la Sardaigne, et

l'exécution des obligations résultant des contrats passés avec le Gouvernement Sarde, lequel se réserve toutefois de terminer lui-même les travaux entrepris pour le percement du tunnel des Alpes (Mont-Cenis).

V. Le Gouvernement Français tiendra compte aux fonctionnaires de l'ordre civil et aux militaires appartenant par leur naissance à la province de Savoie et à l'arrondissement de Nice (circondario di Nizza), et qui deviendront sujets Français, des droits qui leur sont acquis par les services rendus au Gouvernement Sarde; ils jouiront notamment du bénéfice résultant de l'inamovibilité pour la magistrature, et des garanties assurées à l'armée.

VI. Les sujets Sardes originaires de la Savoie et de l'arrondissement de Nice, ou domiciliés actuellement dans ces provinces, qui entendront conserver la nationalité Sarde, jouiront, pendant l'espace d'un an à partir de l'échange des ratifications, et moyennant une déclaration préalable faite à l'autorité compétente, de la faculté de transporter leur domicile en Italie, et de s'y fixer; auquel cas, la qualité de citoyen Sarde leur sera maintenue.

Ils seront libres de conserver leurs immeubles situés sur les territoires réunis à la France.

VII. Pour la Sardaigne, le présent Traité sera exécutoire aussitôt que la sanction législative nécessaire aura été donnée par le Parlement.

VIII. Le présent Traité sera ratifié et les ratifications en seront échangées à Turin dans le délai de 10 jours, ou plus tôt si faire se peut.

En foi de quoi, les Plénipotentiaires respectifs l'ont signé et y ont apposé le cachet de leurs armes.

Fait en double expédition à Turin, le 24me jour du mois de Mars de l'an de grâce 1860.

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DECRET de l'Empereur des Français, portant promulgation de la Déclaration relative aux Droits imposés en Belgique sur les Vins et Eaux-de-vie d'origine Française, signée le 29 *Mai,* 1860, *entre la France et la Belgique.—St. Cloud, le* 18 *Juillet,* 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au département des Affaires Etrangères.

Avons décrété et décrétons ce qui suit :

ART. I. Une Déclaration relative aux droits imposés en Belgique sur les vins et eaux-de-vie d'origine Française ayant été échangée, le 29 Mai, 1860, entre notre Ministre Secrétaire d'Etat au département des Affaires Etrangères et l'Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté le Roi des Belges à Paris, ladite Déclaration est approuvée et sera insérée au Bulletin des lois.

DECLARATION.

Le Gouvernement de Sa Majesté le Roi des Belges ayant notifié au Gouvernement de Sa Majesté l'Empereur des Français son intention de supprimer, à titre général, les droits d'octroi perçus en Belgique sur les vins et eaux-de-vie, et d'augmenter, en vertu de la faculté que lui a éventuellement conférée l'Article II de la Convention spéciale du 18 Avril, 1859,* entre la France et la Belgique, le droit d'accise actuel sur les vins et eaux-de-vie d'origine Française, dans une proportion égale au droit d'octroi moyen réparti sur la consommation totale du Royaume pendant l'année 1858, les deux Gouvernements étant d'ailleurs convenus de fixer, d'un commun accord le chiffre moyen de la surtaxe de compensation sans le concours de la Commission Mixte prévue par le second paragraphe de l'Article susmentionné, le soussigné Ministre et Secrétaire d'Etat au Département des Affaires Etrangères de Sa Majesté l'Empereur des Français se trouve autorisé de la part de Son Auguste Souverain, à déclarer, en échange d'une Déclaration corrélative du Gouvernement de Sa Majesté le Roi des Belges, que le Gouvernement de Sa Majesté l'Empereur des Français consent, dans l'éventualité ci-dessus prévue, à ce que le tarif des droits d'accise actuellement imposés en Belgique aux vins et eaux-de-vie d'origine Française soit modifié de la manière suivante :

Vins, 31 francs 80 centimes par hectolitre.

Eaux-de-vie à 50 degrés—59 francs par hectolitre.

Pour chaque degré au delà de 50 degrés—1 franc 18 centimes, en sus par hectolitre ;

* Vol. XXIX. Page 439.

Liqueurs—71 francs par hectolitre.

En foi de quoi, nous, Ministre et Secrétaire d'Etat au Département des Affaires Etrangères de Sa Majesté l'Empereur des Français, avons signé le présent Acte pour être échangé contre une Déclaration correspondante du Gouvernement de Sa Majesté le Roi des Belges.

Fait à Paris, le 29 Mai, 1860.

(L.S.) THOUVENEL.

Notre Ministre et Secrétaire d'Etat au Département des Affaires Etrangères est chargé de l'exécution du présent décret.

Fait à Saint-Cloud, le 18 Juillet, 1860.

Par l'Empereur: NAPOLEON.

Le Ministre des Affaires Etrangères, THOUVENEL.

DECRET de l'Empereur des Français, portant promulgation de la Convention Additionnelle à la Convention d'Extradition du 7 Novembre, 1844,* *conclue le* 2 *Août,* 1860, *entre la France et les Pays-Bas.—St.-Cloud, le* 18 *Octobre,* 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, Salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères,

Avons décrété et décrétons ce qui suit:

ART. I. Une Convention Additionnelle à la Convention d'Extradition du 7 Novembre, 1844, ayant été conclue, le 2 Août, 1860,



Et Sa Majesté le Roi des Pays-Bas, le Sieur Jules-Philippe-Jacques-Adrien, Comte de Zuylen de Nyevelt, Chevalier de l'Ordre du Lion Néerlandais, Grand-Croix de l'Ordre du Sauveur, Chevalier de Première Classe de l'Ordre du Medjidié, Commandeur de l'Ordre de Léopold, son Chambellan et Ministre des Affaires Etrangères;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivants:

ART. I. L'Article V de la Convention du 7 Novembre, 1844, est ainsi modifié:

L'extradition sera demandée par la voie diplomatique, et ne sera accordée que sur la production d'une expédition authentique du jugement ou de l'arrêt de condamnation ou de mise en accusation, ou du mandat d'arrêt délivré dans les formes prescrites par la législation du pays dont le Gouvernement fait la demande.

II. Les deux Gouvernements Contractants pourront même dès avant la production du mandat d'arrêt, demander l'arrestation immédiate et provisoire de l'étranger dont l'extradition est réclamée.

Cette arrestation provisoire, qui, du reste, est tout à fait facultative, se fera dans les formes et selon les règles prescrites par la législation du pays où elle a lieu.

L'étranger sera mis en liberté si, dans les 15 jours à partir de celui de son arrestation, il ne reçoit notification du mandat d'arrêt.

III. Quant à l'application de l'Article III de la Convention du 7 Novembre, 1844, il est bien entendu que ne sera pas réputé délit politique, ni fait connexe à un semblable délit, l'attentat contre la personne d'un Souverain étranger ou contre celle des membres de sa famille, lorsque cet attentat constituera le fait, soit d'assassinat, soit d'empoisonnement, soit de meurtre.

IV. La présente Convention sera publiée dans les deux Etats aussitôt après l'échange des ratifications, lequel aura lieu dans le délai de 3 semaines, ou plus tôt si faire se peut.

Elle sera mise en vigueur 10 jours après celui de la publication.

Elle aura la même durée que la Convention du 7 Novembre, 1844, à laquelle elle se rapporte, et les deux Conventions seront censées dénoncées simultanément par le fait de la dénonciation de l'une d'elles.

En foi de quoi, les Plénipotentiaires respectifs l'ont signée et y ont apposé le cachet de leurs armes.

Fait à la Haye, le 2 Août, 1860.

(L.S.) SARTIGES.
(L.S.) DE ZUYLEN DE NYEVELT.

ART. II. Notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères est chargé de l'exécution du présent décret.

Fait à St. Cloud, le 18 Octobre, 1860.

Par l'Empereur: NAPOLEON.

Le Ministre des Affaires Etrangères, THOUVENEL.

DECRET de l'Empereur des Français, portant promulgation de la Convention d'Extradition entre les Colonies Françaises et les Colonies Néerlandaises des Indes-Occidentales, conclue le 3 *Août,* 1860, *entre la France et les Pays-Bas.—St. Cloud, le* 18 *Octobre,* 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, Salut.

Sur le rapport de notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères,

Avons décrété et décrétons ce qui suit:

ART. I. Une Convention ayant été conclue avec les Pays-Bas, le 3 Août, 1860, pour l'extradition réciproque des malfaiteurs entre les colonies Françaises et les colonies Néerlandaises des Indes-Occidentales, et les ratifications de cet acte ayant été échangées à la Haye, le 23 Août, 1860, ladite Convention, dont la teneur suit, recevra sa pleine et entière exécution.

CONVENTION.

Sa Majesté l'Empereur des Français et Sa Majesté le Roi des



ART. I. Les Gouvernements de France et des Pays-Bas s'engagent, par la présente Convention, à se livrer réciproquement, dans les cas et aux conditions fixés par la Convention du 7 Novembre, 1844,* et la Convention additionnelle du 2 Août, 1860,† et sauf les stipulations contenues dans les Articles suivants, les malfaiteurs réfugiés des possessions Néerlandaises, aux Indes-Occidentales, dans les possessions Françaises de ces parages, et des possessions Françaises, aux Indes-Occidentales, dans les possessions Néerlandaises de ces parages.

II. L'extradition aura lieu sur la demande que le Gouverneur de l'une des colonies respectives adressera directement au gouverneur de l'autre, lequel aura le droit, soit de l'accorder immédiatement, soit d'en référer à son Gouvernement.

Le principe de communication directe entre les gouverneurs des colonies respectives, au lieu de l'emploi de la voie diplomatique, sera également applicable aux cas prévus par les Articles VII et IX de la Convention du 7 Novembre, 1844, et les Articles I et II de la Convention additionnelle du 2 Août, 1860.

III. Par dérogation à l'Article I de la Convention additionnelle du 2 Août, 1860, tout individu subissant, dans les établissements pénitentiaires coloniaux, une peine encourue pour un des crimes prévus dans lesdites Conventions, sera extradé sur la production de l'extrait matriculaire relatant les crimes qui ont motivé la condamnation, la juridiction par laquelle elle a été prononcée, indépendamment du signalement de l'individu.

Cet extrait sera certifié au nom du gouverneur par le chef de l'établissement d'où l'évasion aura eu lieu, et revêtu du timbre officiel de l'établissement.

IV. Lorsqu'en vertu de l'Article II de la Convention additionnelle du 2 Août, 1860, l'arrestation provisoire aura été accordée par le gouverneur de la colonie auquel la demande en aura été adressée, le mandat d'arrêt ou l'extrait matriculaire mentionné à l'Article précédent devra être transmis à l'étranger détenu, dans le délai de 4 semaines.

V. La présente Convention sera publiée dans les deux Etats, ainsi que dans les colonies respectives, aussitôt après l'échange des ratifications, lequel aura lieu dans le délai de 3 semaines, ou plus tôt si faire se peut. Elle sera mise en vigueur 10 jours après celui de la publication dans les colonies.

La présente Convention continuera à être en vigueur jusqu'à déclaration contraire de la part de l'un des Gouvernements. Néanmoins, elle sera censée dénoncée par le seul fait de la dénonciation de la Convention du 7 Novembre, 1844, ou de la Convention additionnelle du 2 Août, 1860.

* Vol. XXXIII. Page 1233. † Page 416.

En foi de quoi, les Plénipotentiaires respectifs l'ont signée et y ont apposé le cachet de leurs armes.

Fait à la Haye, le 2 Août, 1860.

(L.S.) SARTIGES.
(L.S.) DE ZUYLEN DE NYEVELT.

II. Notre Ministre et Secrétaire d'Etat au Département des Affaires Etrangères est chargé de l'exécution du présent décret.

Fait à Saint-Cloud, le 18 Octobre, 1860.

Par l'Empereur: NAPOLEON.

Le Ministre des Affaires Etrangères, THOUVENEL.

DECRET de l'Empereur des Français, portant promulgation de la Convention, conclue le 23 *Août,* 1860, *entre la France et la Sardaigne, destinée à régler Diverses Questions auxquelles donne lieu la Réunion de la Savoie et de l'Arrondissement de Nice à la France.—St. Cloud, le* 21 *Novembre,* 1860.

NAPOLEON, par la grâce de Dieu et la volonté nationale, Empereur des Français, à tous présents et à venir, Salut.

Sur le rapport de Notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères.

Avons décrété et décrétons ce qui suit:

ART. I. Une Convention destinée à régler les diverses questions auxquelles donne lieu la réunion de la Savoie et de l'arrondissement de Nice à la France ayant été conclue à Paris, le 23 Août, 1860, entre la France et la Sardaigne, et les ratifications de cet acte ayant



sident de section au Conseil d'Etat, Officier de Son Ordre Impérial de la Légion d'Honneur, &c.

Et Sa Majesté le Roi de Sardaigne, M. Antoine, Comte Nomis de Pollone, Sénateur du Royaume, Grand Officier de Son Ordre Royal des Saints Maurice et Lazare, Commandeur de l'Ordre Impérial de la Légion d'Honneur, &c.

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivants:

ART. I. La part contributive de la Savoie et de l'arrondissement de Nice dans la dette publique de Sardaigne est fixée, en exécution de l'Article IV du Traité conclu à Turin le 24 Mars dernier, à 4,500,000 francs, de rentes Sardes, 5 pour cent.

Les intérêts de ces rentes courront, au profit de la Sardaigne, à partir du 14 Juin, 1860.

En conséquence, le Gouvernement Français s'engage à remettre au Gouvernement Sarde des titres de rentes Sardes 5 pour cent, montant à 4,500,000 francs, à prendre sur les titres de rentes semblables qui lui ont été remis en exécution du Traité de Zurich.

Pour tenir compte au Gouvernement Sarde de la somme de 212,500 francs représentant les arrérages de ces rentes échus du 14 Juin, 1860, au 1 Juillet suivant, et formant, au cours de 80 francs 50 centimes, 3,198 francs 75 centimes de rentes de même nature, des titres montant à ladite somme de 3,198 francs 75 centimes seront remis en même temps au Gouvernement Sarde.

II. Les pensions, tant civiles que militaires, régulièrement liquidées au 14 Juin, 1860, par le Gouvernement Sarde, en faveur de tout individu qui, par le fait de l'annexion, deviendra sujet Français, restent acquises à leurs titulaires. Les veuves et les enfants de ces titulaires conservent la réversibilité établie à leur profit par la législation Sarde.

Le Gouvernement Français est chargé, à dater du 14 Juin, 1860, du payement desdites pensions.

III. La propriété des biens attribués à la caisse ecclésiastique, conformément à la loi Sarde du 29 Mai, 1855, et ayant appartenu à des maisons d'ordres religieux, chapitres des églises collégiales ou bénéfices simples mentionnés dans ladite loi et établis dans la Savoie ou dans l'arrondissement de Nice, est transférée à la France à dater du 14 Juin, 1860. A partir de la même date, les pensions, allocations ou revenus alloués, en exécution de la même loi, aux ecclésiastiques ou religieux vivant en commun ou séparément, seront à la charge du Gouvernement Français. Ces assignations faites sur le budget de l'économat général et royal apostolique en faveur d'établissements ou de titulaires ecclésiastiques de la Savoi ou de l'arrondissement de Nice, et montant ensemble à 15,590 livres 57 centimes, cesseront, à dater du 14 Juin, 1860, d'être à la charge dudit économat.

IV. Le matériel, les meubles et effets mobiliers de toute nature garnissant les immeubles affectés à un service public dans la Savoie et l'arrondissement de Nice, et appartenant au Gouvernement Sarde, sont devenus la propriété du Gouvernement Français, par le fait de l'annexion.

Toutefois, le Gouvernement Sarde conserve la propriété du matériel, des meubles et effets mobiliers garnissant le fort de Lesseillon, ainsi que les bouches à feu des forts de Villefranche et de Montalban. Il s'engage à enlever lesdits objets avant le 1er Novembre prochain.

V. La France succède aux droits et obligations résultant de contrats régulièrement stipulés par la Sardaigne, pour des objets d'intérêt public concernant spécialement la Savoie et l'arrondissement de Nice.

VI. La banque établie à Annecy continuera à jouir dans la Savoie des droits et priviléges qui lui ont été concédés, à la condition de satisfaire à toutes les obligations qui lui ont été imposées.

VII. Les colléges et tous autres établissements publics existant dans la Savoie et l'arrondissement de Nice, et constitués d'après les lois Sardes en personnes civiles pouvant acquérir et posséder, conservent la propriété de tous leurs biens meubles et immeubles et les sommes existant dans leurs caisses au 14 Juin, 1860.

Les subventions annuelles ou les bourses dont ils jouissaient aux frais de l'Etat cesseront à la même date d'être à la charge du Gouvernement de Sardaigne.

VIII. Tout concessionnaire d'un brevet d'invention ou d'importation accordé par le Gouvernement Sarde avant le 14 Juin, 1860, continuera à jouir pleinement des droits qu'il lui donne dans les départements de la Savoie et des Alpes-Maritimes, jusqu'à l'expiration de la durée de la concession.



X. Les archives contenant les titres de propriété, les documents administratifs, religieux et de justice civile relatifs à la Savoie et à l'arrondissement de Nice qui peuvent se trouver entre les mains du Gouvernement Sarde seront remis au Gouvernement Français.

Réciproquement, le Gouvernement Français s'engage à remettre au Gouvernement Sarde les titres et documents relatifs à la famille royale de Sardaigne qui pourront se trouver dans les provinces cédées à la France.

Les deux Etats s'engagent mutuellement à échanger des renseignements, des copies ou des calques, sur la demande des autorités supérieures de l'un ou de l'autre pays, pour tous les documents relatifs à des affaires concernant à la fois le royaume de Sardaigne et les territoires annexés à l'Empire.

La remise par la France au Gouvernement Sarde des titres qui pourront lui être rendus, conformément aux réserves du second paragraphe, devra suivre, dans le plus bref délai, la réintégration aux archives de la Savoie et de Nice des titres et documents relatifs aux pays cédés.

XI. Les machines et outils d'origine Sarde, employés, du côté de la Savoie, au percement du Mont Cenis, seront, à l'entrée en France, affranchis de tous droits ; des acquits-à-caution descriptifs seront délivrés pour assurer la reconnaissance de l'identité de ces machines et outils ; ils porteront engagement de les réexporter dans un délai déterminé, qui pourra être renouvelé si les travaux ne sont pas terminés.

XII. Seront admis en France, en exemption de tous droits, les effets à usage et les objets composant le mobilier des individus originaires de la Savoie ou de l'arrondissement de Nice aujourd'hui établis dans les Etats Sardes, qui, dans le délai d'un an, déterminé par l'Article VI du Traité d'Annexion du 24 Mars, 1860, conclu entre la France et la Sardaigne, opteraient pour la nationalité Française, et voudraient se rendre en France. De même l'immunité complète des droits de sortie sera acquise aux effets mobiliers et effets à usage appartenant aux individus originaires de la Savoie et de l'arrondissement de Nice actuellement en France, qui, dans le délai susmentionné, opteraient pour la nationalité Sarde, et transporteraient leur établissement de France en Sardaigne.

Les immunités stipulées dans le présent article ne sont applicables qu'aux objets portant des traces d'usage, à l'exclusion de toute marchandise neuve ou des objets de consommation.

XIII. Indépendamment des formalités prescrites dans chacun des deux pays pour assurer le passage réel à l'étranger des marchandises expédiées sous le régime du transit, il est réglé entre les Parties Contractantes que, à compter du 1er Septembre prochain, les acquits-à-cantion délivrés de part et d'autre pour accompagner

lesdites marchandises ne seront déchargés qu'autant qu'ils auront été revêtus par la Douane, à l'entrée dans le pays voisin, d'un certificat attestant qu'elles y ont été intégralement et régulièrement déclarées et reconnues.

XIV. Le Gouvernement Sarde cède au Gouvernement Français, avec subrogation à dater de ce jour, ses droits d'hypothèque annotés sur les inscriptions de rente Sarde, à titre de cautionnement des comptables, officiers ministériels ou autres fonctionnaires publics des deux provinces de Savoie et de l'arrondissement de Nice passés au service de l'administration Française.

Toutefois, le Gouvernement Sarde se réserve l'exercice des droits d'antériorité et de préférence acquis à son profit au jour de l'annexion et de la prise de possession par la France.

En conséquence, le Gouvernement Français ne pourra faire valoir ses droits d'hypothèque dans l'effet desquels il est actuellement subrogé, qu'après que le Gouvernement Sarde aura été complétement désintéressé de tous comptes, recours ou garantie sur la gestion desdits comptables, officiers ministériels ou fonctionnaires ainsi cautionnés.

Pour l'exécution et l'inefficacité de cette subrogation, le Gouvernement Sarde s'oblige à fournir dans le plus court délai possible, au Gouvernement Français, une déclaration de quitus ou d'apurement et de non-opposition, avec indication des inscriptions de rente qui, en suite de cette délibération, demeurent affectées aux cautionnements pour garantie de la gestion à l'égard de l'administration Française.

Le Gouvernement Sarde fournira une semblable déclaration de quitus ou d'apurement et de non-opposition pour ce qui concerne les cautionnements en numéraire qui seront en même temps versés au trésor Français.



2°. Le montant des primes d'enrôlement et de remplacement appartenant aux militaires originaires des pays annexés devenus Français et passés au service de France;

3°. Le montant des cautionnements des comptables sauf, quant aux comptables de l'Etat, la disposition contenue dans l'Article VI du Protocole No. 2;

4°. Le montant des sommes versées pour consignations judiciaires par suite des mesures prises par les autorités administratives ou judiciaires dans la Savoie ou l'arrondissement de Nice.

Le mouvement de ces fonds s'effectuera au moyen de versements entre les caisses des dépôts et consignations des deux Gouvernements et le solde qui en résultera sera versé à l'une des deux caisses par celle qui aura à en tenir compte.

Le Gouvernement Sarde s'engage à remettre au Gouvernement Français les listes des ayants droit, ainsi que les décrets et autres pièces concernant chaque prêt et chaque dépôt. La remise de ces documents sera faite assez à temps pour que le compte à établir entre les deux caisses puisse être soldé au 1er Novembre prochain au plus tard.

Les intérêts attachés à chaque prêt ou à chaque dépôt courront, au profit de l'une ou de l'autre des deux caisses, jusqu'au jour où les comptes seront définitivement arrêtés et soldés.

XVI. Les dispositions de la présente Convention seront exécutoires aussitôt que la publication légale aura eu lieu dans les deux pays.

XVII. La présente Convention sera ratifiée, et les ratifications en seront échangées à Paris, aussitôt que faire se pourra.

En foi de quoi, les Plénipotentiares respectifs l'ont signée et y ont apposé le cachet de leurs armes.

Fait en double expédition, à Paris, le 23 Août de l'an de grâce 1860.

(L.S.) AD. VUITRY.
(L.S.) A. DE POLLONE.

II. Notre Ministre Secrétaire d'Etat au Département des Affaires Etrangères est chargé de l'exécution du présent Décret.

Fait à Saint Cloud, le 21 Novembre, 1860.

Par l'Empereur: NAPOLEON.

Le Ministre des Affaires Etrangères, THOUVENEL.

MESSAGE of the President of The United States, on the Opening of Congress.—Washington, December 3, 1860.

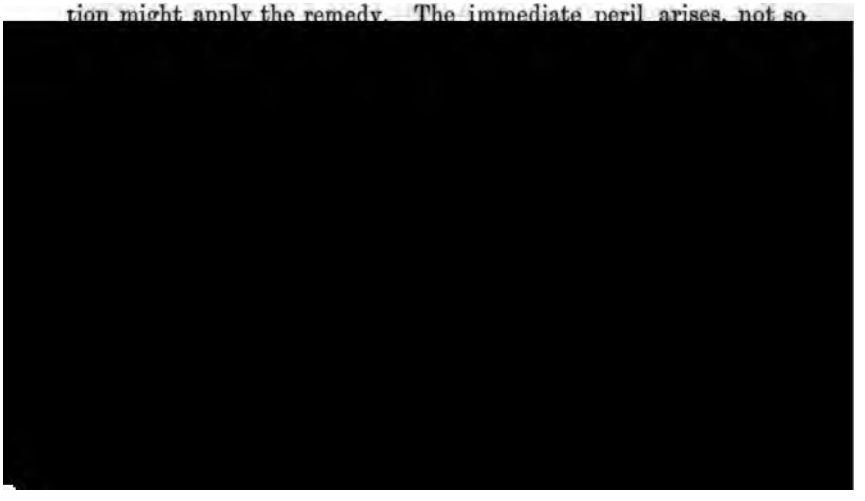
FELLOW-CITIZENS OF THE SENATE AND
HOUSE OF REPRESENTATIVES,

THROUGHOUT the year since our last meeting, the country has been eminently prosperous in all its material interests. The general health has been excellent, our harvests have been abundant, and plenty smiles throughout the land. Our commerce and manufactures have been prosecuted with energy and industry, and have yielded fair and ample returns. In short, no nation in the tide of time has ever presented a spectacle of greater material prosperity than we have done, until within a very recent period.

Why is it, then, that discontent now so extensively prevails, and the union of the States, which is the source of all these blessings is threatened with destruction?

The long-continued and intemperate interference of the Northern people with the question of slavery in the Southern States has at length produced its natural effects. The different sections of the Union are now arrayed against each other, and the time has arrived, so much dreaded by the Father of his Country, when hostile geographical parties have been formed.

I have long foreseen, and often forewarned my countrymen of the now impending danger. This does not proceed solely from the claim on the part of Congress or the territorial legislatures to exclude slavery from the territories, nor from the efforts of different States to defeat the execution of the fugitive slave law. All or any of these evils might have been endured by the South, without danger to the Union (as others have been), in the hope that time and reflection might apply the remedy. The immediate peril arises, not so



necessary consequence be to render the homes and the fire-sides of nearly half the parties to it habitually and hopelessly insecure. Sooner or later the bonds of such a Union must be severed. It is my conviction that this fatal period has not yet arrived; and my prayer to God is, that he would preserve the Constitution and the Union throughout all generations.

But let us take warning in time, and remove the cause of danger. It cannot be denied that for 25 years the agitation at the North against slavery has been incessant. In 1835, pictorial hand-bills and inflammatory appeals were circulated extensively throughout the South of a character to excite the passions of the slaves, and, in the language of General Jackson, "to stimulate them to insurrection and produce all the horrors of a servile war." This agitation has ever since been continued by the public press, by the proceedings of State and county conventions, and by abolition sermons and lectures. The time of Congress has been occupied in violent speeches on this never-ending subject; and appeals, in pamphlet and other forms, indorsed by distinguished names, have been sent forth from this central point and spread broadcast over the Union.

How easy would it be for the American people to settle the slavery question for ever, and to restore peace and harmony to this distracted country! They, and they alone, can do it. All that is necessary to accomplish the object, and all for which the slave States have ever contended, is to be let alone and permitted to manage their domestic institutions in their own way. As sovereign States, they and they alone are responsible before God and the world for the slavery existing among them. For this the people of the North are not more responsible, and have no more right to interfere, than with similar institutions in Russia or in Brazil.

Upon their good sense and patriotic forbearance, I confess, I still greatly rely. Without their aid it is beyond the power of any President, no matter what may be his own political proclivities, to restore peace and harmony among the States. Wisely limited and restrained as is his power under our Constitution and laws, he alone can accomplish but little for good or for evil on such a momentous question.

And this brings me to observe, that the election of any one of our fellow-citizens to the office of President does not of itself afford just cause for dissolving the Union. This is more especially true if his election has been effected by a mere plurality and not a majority of the people, and has resulted from transient and temporary causes, which may probably never again occur. In order to justify a resort to revolutionary resistance the Federal Government must be guilty of "a deliberate, palpable, and dangerous exercise" of powers not

granted by the Constitution. The late presidential election, however, has been held in strict conformity with its express provisions. How, then, can the result justify a revolution to destroy this very Constitution? Reason, justice, a regard for the Constitution, all require that we shall wait for some overt and dangerous act on the part of the President elect, before resorting to such a remedy. It is said, however, that the antecedents of the President elect have been sufficient to justify the fears of the South that he will attempt to invade their Constitutional rights. But are such apprehensions of contingent danger in the future sufficient to justify the immediate destruction of the noblest system of government ever devised by mortals? From the very nature of his office, and its high responsibilities, he must necessarily be conservative. The stern duty of administering the vast and complicated concerns of this government affords in itself a guarantee that he will not attempt any violation of a clear constitutional right.

After all, he is nothing more than the chief executive officer of the Government. His province is not to make but to execute the laws; and it is a remarkable fact in our history that, notwithstanding the repeated efforts of the Anti-slavery party, no single Act has ever passed Congress, unless we may possibly except the Missouri compromise, impairing in the slightest degree the rights of the South to their property in slaves. And it may also be observed, judging from present indications, that no probability exists of the passage of such an Act by a majority of both Houses, either in the present or the next Congress. Surely, under these circumstances we ought to be restrained from present action by the precept of Him who spake as man never spake that "sufficient unto the day is the evil thereof." The day of evil may never come unless we shall rashly bring it upon ourselves.



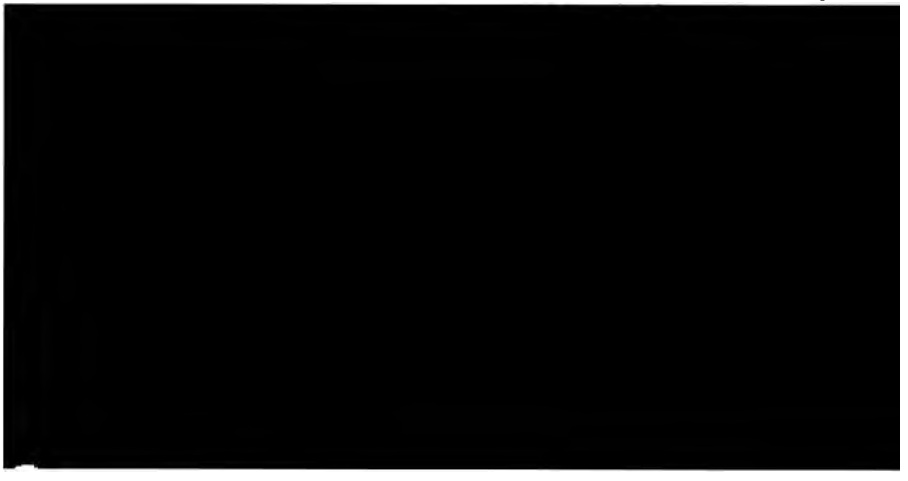
Governor, declaring that slavery "is and shall be for ever prohibited in this territory." Such an Act, however, plainly violating the rights of property secured by the Constitution, will surely be declared void by the judiciary, whenever it shall be presented in a legal form.

Only 3 days after my inauguration, the Supreme Court of The United States solemnly adjudged that this power did not exist in a territorial Legislature. Yet such has been the factious temper of the times, that the correctness of this decision has been extensively impugned before the people, and the question has given rise to angry political conflicts throughout the country. Those who have appealed from this judgment of our highest constitutional tribunal to popular assemblies, would, if they could, invest a territorial Legislature with power to annul the sacred rights of property. This power Congress is expressly forbidden by the Federal Constitution to exercise. Every State Legislature in the Union is forbidden by its own Constitution to exercise it. It cannot be exercised in any State except by the people in their highest sovereign capacity when framing or amending their State Constitution. In like manner it can only be exercised by the people of a territory represented in a Convention of Delegates, for the purpose of framing a Constitution preparatory to admission as a State into the Union. Then, and not until then, are they invested with power to decide the question whether slavery shall or shall not exist within their limits. This is an act of sovereign authority and not of subordinate territorial legislation. Were it otherwise, then indeed would the equality of the States in the territories be destroyed and the rights of property in slaves would depend not upon the guarantees of the Constitution, but upon the shifting majorities of an irresponsible territorial Legislature. Such a doctrine, from its intrinsic unsoundness, cannot long influence any considerable portion of our people, much less can it afford a good reason for a dissolution of the Union.

The most palpable violations of constitutional duty which have yet been committed consist in the acts of different State Legislatures to defeat the execution of the fugitive slave law. It ought to be remembered, however, that for these acts neither Congress nor any President can justly be held responsible. Having been passed in violation of the Federal Constitution, they are therefore null and void. All the courts, both State and national, before whom the question has arisen, have, from the beginning, declared the fugitive slave law to be constitutional. The single exception is that of a State Court in Wisconsin; and this has not only been reversed by the proper appellate tribunal, but has met with such universal reprobation, that there can be no danger from it as a precedent. The validity of this law has been established over and over again by

the Supreme Court of The United States with perfect unanimity. It is founded upon an express provision of the Constitution, requiring that fugitive slaves who escape from service in one State to another shall be "delivered up" to their masters. Without this provision it is a well-known historical fact, that the Constitution itself could never have been adopted by the Convention. In one form or other under the Acts of 1793 and 1850, both being substantially the same, the fugitive slave law has been the law of the land from the days of Washington until the present moment. Here, then, a clear case is presented, in which it will be the duty of the next President, as it has been my own, to act with vigour in executing this supreme law against the conflicting enactments of State Legislatures. Should he fail in the performance of this high duty, he will then have manifested a disregard of the Constitution and laws, to the great injury of the people of nearly one-half of the States of the Union. But are we to presume in advance that he will thus violate his duty? This would be at war with every principle of justice and of Christian charity. Let us wait for the overt act. The fugitive slave law has been carried into execution in every contested case since the commencement of the present Administration; though often, it is to be regretted, with great loss and inconvenience to the master, and with considerable expense to the Government. Let us trust that the State Legislatures will repeal their unconstitutional and obnoxious enactments. Unless this shall be done without unnecessary delay, it is impossible for any human power to save the Union.

The Southern States, standing on the basis of the Constitution, have a right to demand this act of justice from the States of the North. Should it be refused, then the Constitution, to which all the States are parties, will have been wilfully violated by one



be on the principle that the Federal Government is a mere voluntary association of States, to be dissolved at pleasure by any one of the Contracting Parties. If this be so, the Confederacy is a rope of sand, to be penetrated and dissolved by the first adverse wave of public opinion in any of the States. In this manner our 33 States may resolve themselves into as many petty, jarring, and hostile republics, each one retiring from the Union without responsibility whenever any sudden excitement might impel them to such a course. By this process a Union might be entirely broken into fragments in a few weeks which cost our forefathers many years of toil, privation, and blood to establish.

Such a principle is wholly inconsistent with the history as well as the character of the Federal Constitution. After it was framed with the greatest deliberation and care it was submitted to conventions of the people of the several States for ratification. Its provisions were discussed at length in these bodies, composed of the first men of the country. Its opponents contended that it conferred powers upon the Federal Government dangerous to the rights of the States, whilst its advocates maintained that, under a fair construction of the instrument, there was no foundation for such apprehensions. In that mighty struggle between the first intellects of this or any other country it never occurred to any individual, either among its opponents or advocates, to assert or even to intimate that their efforts were all vain labour, because the moment that any State felt herself aggrieved she might secede from the Union. What a crushing argument would this have proved against those who dreaded that the rights of the States would be endangered by the Constitution. The truth is, that it was not until many years after the origin of the Federal Government that such a proposition was first advanced. It was then met and refuted by the conclusive arguments of General Jackson, who, in his message of the 16th January, 1833,* transmitting the nullifying ordinance of South Carolina to Congress, employs the following language: "The right of the people of a single State to absolve themselves at will and without the consent of the other States from their most solemn obligations, and hazard the liberty and happiness of the millions composing this Union, cannot be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the general Government is constituted, and to the objects which it was expressly formed to attain."

It is not pretended that any clause in the Constitution gives countenance to such a theory. It is altogether founded upon inference not from any language contained in the instrument itself, but from the sovereign character of the several States by which it was ratified. But is it beyond the power of a State, like an indi-

* Vol. XX. Page 1016.

vidual, to yield a portion of its sovereign rights to secure the remainder? In the language of Mr. Madison, who has been called the father of the Constitution, "It was formed by the States—that is, by the people in each of the States acting in their highest sovereign capacity, and formed consequently by the same authority which formed the State Constitutions." "Nor is the Government of The United States, created by the Constitution, less a Government, in the strict sense of the term, within the sphere of its powers, than the Governments created by the Constitutions of the States are within their several spheres. It is, like them, organized into legislative, executive, and judiciary departments. It operates, like them, directly on persons and things; and, like them, it has at command a physical force for executing the powers committed to it."

It was intended to be perpetual, and not to be annulled at the pleasure of any one of the Contracting Parties. The old articles of confederation were entitled "Articles of confederation and perpetual union between the States;" and by Article XIII it is expressly declared that "the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual." The preamble to the Constitution of The United States having express reference to the Articles of Confederation, recites that it was established "in order to form a more perfect Union." And yet it is contended that this "more perfect Union" does not include the essential attribute of perpetuity.

But that the Union was designed to be perpetual, appears conclusively from the nature and extent of the powers conferred by the Constitution on the Federal Government. These powers embrace the very highest attributes of national sovereignty. They place both the sword and the purse under its control. Congress has power to make war and to make peace; to raise and support armies and



any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts." Moreover, "without the consent of Congress no State shall lay any imposts or duties on any imports or exports, except what may be absolutely necessary for executing its inspection laws," and if they exceed this amount, the excess shall belong to The United States. And "no State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign Power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay."

In order still further to secure the uninterrupted exercise of these high powers against State interposition, it is provided "that this Constitution and the laws of The United States which shall be made in pursuance thereof, and all Treaties made or which shall be made under the authority of The United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

The solemn sanction of religion has been superadded to the obligations of official duty, and all senators and representatives of The United States, all members of State Legislatures, and all executive and judicial officers, "both of The United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

In order to carry into effect these powers, the Constitution has established a perfect government in all its forms, legislative, executive, and judicial; and this Government to the extent of its powers acts directly upon the individual citizens of every State, and executes its own decrees by the agency of its own officers. In this respect it differs entirely from the Government under the old confederation, which was confined to making requisitions on the States in their sovereign character. This left it in the discretion of each whether to obey or to refuse, and they often declined to comply with such requisitions. It thus became necessary for the purpose of removing this barrier, and, "in order to form a more perfect union," to establish a government which could act directly upon the people, and execute its own laws without the intermediate agency of the States. This has been accomplished by the Constitution of The United States. In short, the Government created by the Constitution, and deriving its authority from the sovereign people of each of the several States, has precisely the same right to exercise its power over the people of all these States in the enumerated cases, that each one of them possesses over subjects not delegated to The United States, but "reserved to the States respectively or to the people."

To the extent of the delegated powers the Constitution of The United States is as much a part of the constitution of each State, and is as binding upon its people, as though it had been textually inserted therein.

This Government, therefore, is a great and powerful Government, invested with all the attributes of sovereignty over the special subjects to which its authority extends. Its framers never intended to implant in its bosom the seeds of its own destruction, nor were they at its creation guilty of the absurdity of providing for its own dissolution. It was not intended by its framers to be the baseless fabric of a vision, which, at the touch of the enchanter, would vanish into thin air, but a substantial and mighty fabric, capable of resisting the slow decay of time, and of defying the storms of ages. Indeed, well may the jealous patriots of that day have indulged fears that a Government of such high powers might violate the reserved rights of the States, and wisely did they adopt the rule of a strict construction of these powers to prevent the danger. But they did not fear, nor had they any reason to imagine that the Constitution would ever be so interpreted as to enable any State by her own act, and without the consent of her sister States, to discharge her people from all or any of their Federal obligations.

It may be asked, then, are the people of the States without redress against the tyranny and oppression of the Federal Government? By no means. The right of resistance on the part of the governed against the oppression of their Governments cannot be denied. It exists independently of all constitutions, and has been exercised at all periods of the world's history. Under it old Governments have been destroyed and new ones have taken their place. It is embodied in strong and express language in our own Declaration of Independence. But the distinction must ever be observed



its limits, through whose agency alone these laws can be carried into execution, have already resigned. We no longer have a district judge, a district attorney, or a marshal in South Carolina. In fact, the whole machinery of the Federal Government necessary for the distribution of remedial justice among the people has been demolished, and it would be difficult, if not impossible, to replace it.

The only acts of Congress on the statute book bearing upon this subject are those of the 28th February, 1795, and 3rd March, 1807. These authorize the President, after he shall have ascertained that the marshal, with his *posse comitatus*, is unable to execute civil or criminal process in any particular case, to call forth the militia and employ the army and navy to aid him in performing this service, having first by proclamation commanded the insurgents "to disperse and retire peaceably to their respective abodes within a limited time." This duty cannot by possibility be performed in a State where no judicial authority exists to issue process, and where there is no marshal to execute it, and where, even if there were such an officer, the entire population would constitute one solid combination to resist him.

The bare enumeration of these provisions proves how inadequate they are without further legislation to overcome a united opposition in a single State, not to speak of other States who may place themselves in a similar attitude. Congress alone has power to decide whether the present laws can or cannot be amended so as to carry out more effectually the objects of the Constitution.

The same insuperable obstacles do not lie in the way of executing the laws for the collection of the customs. The revenue still continues to be collected, as heretofore, at the Custom-House in Charleston, and should the collector unfortunately resign a successor may be appointed to perform this duty.

Then, in regard to the property of The United States in South Carolina. This has been purchased for a fair equivalent, "by the consent of the Legislature of the State," "for the erection of forts, magazines, arsenals," &c., and over these the authority "to exercise exclusive legislation," has been expressly granted by the Constitution to Congress. It is not believed that any attempt will be made to expel The United States from this property by force; but if in this I should prove to be mistaken, the officer in command of the forts has received orders to act strictly on the defensive. In such a contingency the responsibility for consequences would rightfully rest upon the heads of the assailants.

Apart from the execution of the laws, so far as this may be practicable, the Executive has no authority to decide what shall be the relations between the Federal Government and South Carolina. He has been invested with no such discretion. He possesses

no power to change the relations heretofore existing between them, much less to acknowledge the independence of that State. This would be to invest a mere executive officer with the power of recognizing the dissolution of the Confederacy among our 33 sovereign States. It bears no resemblance to the recognition of a foreign *de facto* Government, involving no such responsibility. Any attempt to do this would, on his part, be a naked act of usurpation. It is, therefore, my duty to submit to Congress the whole question in all its bearings. The course of events is so rapidly hastening forward that the emergency may soon arise when you may be called upon to decide the momentous question whether you possess the power, by force of arms, to compel a State to remain in the Union. I should feel myself recreant to my duty were I not to express an opinion on this important subject.

The question fairly stated is: Has the Constitution delegated to Congress the power to coerce a State into submission which is attempting to withdraw or has actually withdrawn from the Confederacy? If answered in the affirmative, it must be on the principle that the power has been conferred upon Congress to declare and to make war against a State. After much serious reflection, I have arrived at the conclusion that no such power has been delegated to Congress or to any other department of the Federal Government. It is manifest, upon an inspection of the Constitution, that this is not among the specific and enumerated powers granted to Congress; and it is equally apparent that its exercise is not "necessary and proper for carrying into execution" any one of these powers. So far from this power having been delegated to Congress, it was expressly refused by the Convention which framed the Constitution.

It appears from the proceedings of that body that on the 31st



the power to make war against a State is at variance with the whole spirit and intent of the Constitution. Suppose such a war should result in the conquest of a State: how are we to govern it afterwards? Shall we hold it as a province and govern it by despotic power? In the nature of things we could not, by physical force, control the will of the people, and compel them to elect Senators and Representatives to Congress, and to perform all the other duties depending upon their own volition and required from the free citizens of a free State as a constituent member of the Confederacy.

But, if we possessed this power, would it be wise to exercise it under existing circumstances? The object would doubtless be to preserve the Union. War would not only present the most effectual means of destroying it, but would banish all hope of its peaceable reconstruction. Besides, in the fraternal conflict a vast amount of blood and treasure would be expended, rendering future reconciliation between the States impossible. In the meantime, who can foretell what would be the sufferings and privations of the people during its existence?

The fact is, that our Union rests upon public opinion, and can never be cemented by the blood of its citizens shed in civil war. If it cannot live in the affections of the people, it must one day perish. Congress possesses many means of preserving it by conciliation; but the sword was not placed in their hand to preserve it by force.

But may I be permitted solemnly to invoke my countrymen to pause and deliberate before they determine to destroy this, the grandest temple which has ever been dedicated to human freedom since the world began. It has been consecrated by the blood of our fathers, by the glories of the past and by the hopes of the future. The Union has already made us the most prosperous, and ere long will, if preserved, render us the most powerful nation on the face of the earth. In every foreign region of the globe the title of American citizen is held in the highest respect, and when pronounced in a foreign land it causes the hearts of our countrymen to swell with honest pride. Surely, when we reach the brink of the yawning abyss we shall recoil with horror from the last fatal plunge.

By such a dread catastrophe, the hopes of the friends of freedom throughout the world would be destroyed, and a long night of leaden despotism would enshroud the nations. Our example for more than 80 years would not only be lost, but it would be quoted as a conclusive proof that man is unfit for self-government.

It is not every wrong—nay, it is not every grievous wrong—which can justify a resort to such a fearful alternative. This ought to be the last desperate remedy of a despairing people, after every other constitutional means of conciliation had been exhausted. We should reflect that, under this free Government, there is an inces-

sant ebb and flow in public opinion. The slavery question, like everything human, will have its day. I firmly believe that it has reached and passed the culminating point. But if, in the midst of the existing excitement, the Union shall perish, the evil may then become irreparable.

Congress can contribute much to avert it, by proposing and recommending to the Legislatures of the several States the remedy for existing evils which the Constitution has itself provided for its own preservation. This has been tried at different critical periods of our history, and always with eminent success. It is to be found in Article V, providing for its own amendment. Under this Article amendments have been proposed by two-thirds of both Houses of Congress, and have been "ratified by the Legislatures of three-fourths of the several States," and have consequently become parts of the Constitution. To this process the country is indebted for the clause prohibiting Congress from passing any law respecting an establishment of religion, or abridging the freedom of speech or of the press, or of the right of petition. To this we are, also, indebted for the Bill of Rights, which secures the people against any abuse of power by the Federal Government. Such were the apprehensions justly entertained by the friends of State rights at that period as to have rendered it extremely doubtful whether the Constitution could have long survived without those amendments.

Again, the Constitution was amended by the same process, after the election of President Jefferson by the House of Representatives, in February, 1803. This amendment was rendered necessary to prevent a recurrence of the dangers, which had seriously threatened the existence of the Government during the pendency of that election. The article for its own amendment was intended to secure



respective Senators in Congress, their wish that two-thirds thereof would propose an explanatory amendment to the Constitution, or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a Convention for the same object." This is the very course which I earnestly recommend, in order to obtain an "explanatory amendment" of the Constitution on the subject of slavery. This might originate with Congress or the State Legislatures, as may be deemed most advisable to attain the object.

The explanatory amendment might be confined to the final settlement of the true construction of the Constitution on three special points:

1. An express recognition of the right of property in slaves in the States where it now exists or may hereafter exist.

2. The duty of protecting this right in all the common territories throughout their territorial existence, and until they shall be admitted as States into the Union, with or without slavery, as their constitutions may prescribe.

3. A like recognition of the right of the master to have his slave, who has escaped from one State to another, restored and "delivered up" to him, and of the validity of the fugitive slave law enacted for this purpose, together with a declaration that all State laws impairing or defeating this right, are violations of the Constitution, and are consequently null and void. It may be objected that this construction of the Constitution has already been settled by the Supreme Court of The United States, and what more ought to be required? The answer is, that a very large proportion of the people of The United States still contest the correctness of this decision, and never will cease from agitation and admit its binding force until clearly established by the people of the several States in their sovereign character. Such an explanatory amendment, would, it is believed, for ever terminate the existing dissensions, and restore peace and harmony among the States.

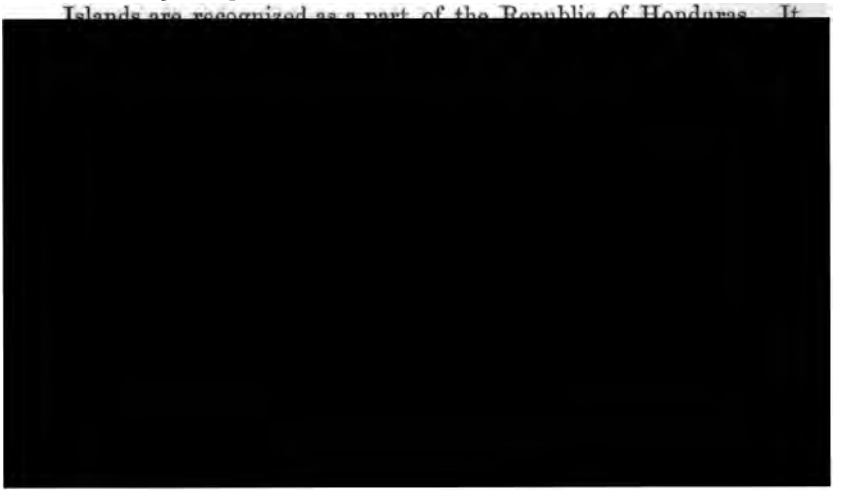
It ought not to be doubted that such an appeal to the arbitrament established by the Constitution itself would be received with favour by all the States of the Confederacy. In any event, it ought to be tried in a spirit of conciliation before any of these States shall separate themselves from the Union.

When I entered upon the duties of the Presidential office the aspect neither of our foreign nor domestic affairs was at all satisfactory. We were involved in dangerous complications with several nations, and two of our territories were in a state of revolution against the Government. A restoration of the African Slave Trade had numerous and powerful advocates. Unlawful military expeditions were countenanced by many of our citizens, and were suffered,

in defiance of the efforts of the Government, to escape from our shores for the purpose of making war upon the unoffending people of neighbouring Republics with whom we were at peace. In addition to these and other difficulties, we experienced a revulsion in monetary affairs, soon after my advent to power, of unexampled severity, and of ruinous consequences to all the great interests of the country. When we take a retrospect of what was then our condition, and contrast this with its material prosperity at the time of the late Presidential election, we have abundant reason to return our grateful thanks to that merciful Providence which has never forsaken us as a nation in all our past trials.

Our relations with Great Britain are of the most friendly character. Since the commencement of my administration the two dangerous questions arising from the Clayton and Bulwer Treaty, and from the right of search claimed by the British Government, have been amicably and honourably adjusted.

The discordant constructions of the Clayton and Bulwer Treaty between the two Governments, which at different periods of the discussion bore a threatening aspect, have resulted in a final settlement entirely satisfactory to this Government. In my last annual message I informed Congress that the British government had not then "completed Treaty arrangements with the Republics of Honduras and Nicaragua in pursuance of the understanding between the two Governments. It is, nevertheless, confidently expected that this good work will ere long be accomplished." This confident expectation has since been fulfilled. Her Britannic Majesty concluded a Treaty with Honduras on the 28th November, 1859, and with Nicaragua on the 28th August, 1860, relinquishing the Mosquito protectorate. Besides, by the former, the Bay Islands are recognized as a part of the Republic of Honduras. It



moment have been precipitated into a war. This was rendered manifest by the exasperated state of public feeling throughout our entire country, produced by the forcible search of American merchant vessels by British cruizers on the coast of Cuba, in the spring of 1858. The American people hailed with general acclaim the orders of the Secretary of the Navy to our naval force in the Gulf of Mexico "to protect all vessels of The United States on the high seas from search or detention by the vessels of war of any other nation." These orders might have produced an immediate collision between the naval forces of the two countries. This was most fortunately prevented by an appeal to the justice of Great Britain, and to the law of nations as expounded by her own most eminent jurists.

The only question of any importance which still remains open, is the disputed title between the two Governments to the Island of San Juan, in the vicinity of Washington territory. As this question is still under negotiation, it is not deemed advisable at the present moment to make any other allusion to the subject.

The recent visit of the Prince of Wales, in a private character, to the people of this country, has proved to be a most auspicious event. In its consequences, it cannot fail to increase the kindred and kindly feelings which I trust may ever actuate the Government and people of both countries in their political and social intercourse with each other.

With France, our ancient and powerful ally, our relations continue to be of the most friendly character. A decision has recently been made by a French judicial tribunal, with the approbation of the Imperial Government, which cannot fail to foster the sentiments of mutual regard that have so long existed between the two countries. Under the French law, no person can serve in the armies of France, unless he be a French citizen. The law of France recognizing the natural right of expatriation, it follows as a necessary consequence, that a Frenchman by the fact of having become a citizen of The United States has changed his allegiance, and has lost his native character. He cannot therefore be compelled to serve in the French armies, in case he should return to his native country. These principles were announced in 1852 by the French Minister of War, and in two late cases have been confirmed by the French judiciary. In these, two natives of France have been discharged from the French army, because they had become American citizens. To employ the language of our present minister to France, who has rendered good service on this occasion: "I do not think our French naturalized fellow-citizens will hereafter experience much annoyance on this subject." I venture to predict that the time is not far distant when the other continental powers

will adopt the same wise and just policy which has done so much honour to the enlightened Government of the Emperor, In any event, our Government is bound to protect the rights of our naturalized citizens everywhere, to the same extent as though they had drawn their first breath in this country. We can recognize no distinction between our native and naturalized citizens.

Between the great empire of Russia and The United States, the mutual friendship and regard which has so long existed still continues to prevail, and if possible to increase. Indeed our relations with that empire are all that we could desire. Our relations with Spain are now of a more complicated though less dangerous character than they have been for many years. Our citizens have long held and continue to hold numerous claims against the Spanish Government. These had been ably urged for a series of years by our successive diplomatic representatives at Madrid, but without obtaining redress. The Spanish Government finally agreed to institute a joint commission for the adjustment of these claims, and on the 5th day of March, 1860, concluded a convention for this purpose with our present Minister at Madrid.

Under this Convention, what have been denominated the "Cuban claims," amounting to 128,635 dollars 54 cents, in which more than 100 of our fellow-citizens are interested, were recognized; and the Spanish Government agreed to pay 100,000 dollars of this amount "within three months following the exchange of ratifications." The payment of the remaining 28,635 dollars 54 cents was to await the decision of the commissioners for or against the "*Amistad* claim;" but in any event the balance was to be paid to the claimants either by Spain or The United States. These terms, I have every reason to know, are highly satisfactory to the holders of the Cuban claims. Indeed they have made a formal offer authorizing the



examination and decision like the other claims. Both Governments were bound respectively to pay the amounts awarded to the several claimants "at such times and places as may be fixed by and according to the tenor of said awards."

I transmitted this Convention to the Senate for their constitutional action on the 3rd of May, 1860, and on the 27th of the succeeding June, they determined that they would "not advise and consent" to its ratification.

These proceedings place our relations with Spain in an awkward and embarrasing position. It is more than probable that the final adjustment of these claims will devolve upon my successor.

I reiterate the recommendation contained in my annual message of December, 1858, and repeated in that of December, 1859, in favour of the acquisition of Cuba from Spain by fair purchase. I firmly believe that such an acquisition would contribute essentially to the well-being and prosperity of both countries in all future time, as well as prove the certain means of immediately abolishing the African slave trade throughout the world. I would not repeat this recommendation upon the present occasion if I believed that the transfer of Cuba to The United States, upon conditions highly favourable to Spain, could justly tarnish the national honour of the proud and ancient Spanish monarchy. Surely no person ever attributed to the First Napoleon a disregard of the national honour of France for transferring Louisiana to The United States for a fair equivalent, both in money and commercial advantages.

With the Emperor of Austria and the remaining Continental Powers of Europe, including that of the Sultan, our relations continue to be of the most friendly character.

The friendly and peaceful policy pursued by the Government of The United States towards the Empire of China has produced the most satisfactory results. The Treaty of Tientsin of the 18th June, 1858,* has been faithfully observed by the Chinese authorities. The Convention of the 8th November, 1858,† supplementary to this Treaty for the adjustment and satisfaction of the claims of our citizens on China, referred to in our last annual message, has been already carried into effect, so far as this was practicable. Under this Convention the sum of 500,000 taels, equal to about 700,000 dollars, was stipulated to be paid in satisfaction of the claims of American citizens out of the one-fifth of the receipts for tonnage, import, and export duties on American vessels at the ports of Canton, Shanghai, Fuchau; and it was "agreed that this amount shall be in full liquidation of all claims of American citizens at the various ports of this date." Debentures for this amount, to wit: 300,000 taels for Canton, 100,000 for Shanghai, and 100,000 for Fuchau, were delivered, according to the terms of the Convention,

* Vol. XLVIII. Page 606. † Vol. XLVIII. Page 629.

by the respective Chinese collectors of the Customs of these ports to the agent selected by our Minister to receive the same. Since that time the claims of our citizens have been adjusted by the Board of Commissioners appointed for that purpose under the Act of March 3, 1859, and their awards, which proved satisfactory to the claimants, have been approved by our Minister. In the aggregate they amount to the sum of 498,694 dollars 78 cents. The claimants have already received a large proportion of the sums awarded to them out of the fund provided, and it is confidently expected that the remainder will, ere long, be entirely paid. After the awards shall have been satisfied, there will remain a surplus of more than 200,000 dollars at the disposition of Congress. As this will in equity belong to the Chinese Government, would not justice require its appropriation to some benevolent object in which the Chinese may be specially interested?

Our Minister to China, in obedience to his instructions, has remained perfectly neutral in the war between Great Britain and France and the Chinese Empire, although, in conjunction with the Russian Minister, he was ever ready and willing, had the opportunity offered, to employ his good offices in restoring peace between the parties. It is but an act of simple justice, both to our present Minister and his predecessor, to state that they have proved fully equal to the delicate, trying, and responsible positions in which they have on different occasions been placed.

The ratifications of the Treaty with Japan, concluded at Yeddo on the 29th July, 1858,* were exchanged at Washington on the 22nd May last, and the Treaty itself was proclaimed on the succeeding day. There is good reason to expect that, under its protection and influence, our trade and intercourse with that distant and interesting people will rapidly increase.



The exchange of the ratifications of the Convention with the Republic of New Granada, signed at Washington on the 10th September, 1857,* has been long delayed from accidental causes, for which neither party is censurable. These ratifications were duly exchanged in this city on the 5th of November last. Thus has a controversy been amicably terminated, which had become so serious at the period of my inauguration, as to require me, on the 17th April, 1857, to direct our Minister to demand his passports and return to The United States.

Under this Convention the Government of New Granada has specially acknowledged itself to be responsible to our citizens "for damages which were caused by the riot at Panama on the 15th April, 1856." These claims, together with other claims of our citizens which had been long urged in vain, are referred for adjustment to a Board of Commissioners. I submit a copy of the Convention to Congress, and recommend the Legislation necessary to carry it into effect.

Persevering efforts have been made for the adjustment of the claims of American citizens against the Government of Costa Rica, and I am happy to inform you that these have finally prevailed. A Convention was signed at the city of San José on the 2nd July last, between the Minister resident of The United States in Costa Rica, and the Plenipotentiaries of that Republic, referring these claims to a Board of Commissioners, and providing for the payment of their awards. This Convention will be submitted immediately to the Senate for their constitutional action.

The claims of our citizens upon the Republic of Nicaragua have not yet been provided for by treaty, although diligent efforts for this purpose have been made by our Minister resident to that Republic. These are still continued with a fair prospect of success.

Our relations with Mexico remain in a most unsatisfactory condition. In my last two annual messages I discussed extensively the subject of these relations, and do not now propose to repeat at length the facts and arguments then presented. They proved conclusively that our citizens residing in Mexico, and our merchants trading thereto, had suffered a series of wrongs and outrages such as we have never patiently borne from any other nation. For these our successive Ministers, invoking the faith of Treaties, had, in the name of their country, persistently demanded redress and indemnification, but without the slightest effect. Indeed, so confident had the Mexican authorities become of our patient endurance, that they universally believed they might commit these outrages upon American citizens with absolute impunity. Thus wrote our Minister in 1856, and expressed the opinion, that "nothing but a

* Vol. XLVII. Page 353.

manifestation of the power of the Government and of its purpose to punish these wrongs will avail."

Afterwards, in 1857, came the adoption of a new constitution for Mexico, the election of a President and Congress under its provisions, and the inauguration of the President. Within one short month, however, this President was expelled from the capital by a rebellion in the army; and the supreme power of the Republic was assigned to General Zuloaga. This usurper was, in his turn, soon compelled to retire, and give place to General Miramon.

Under the Constitution which had thus been adopted, Senor Juarez, as Chief Justice of the Supreme Court, became the lawful President of the Republic; and it was for the maintenance of the Constitution and his authority derived from it, that the civil war commenced, and still continues to be prosecuted.

Throughout the year 1858, the Constitutional party grew stronger and stronger. In the previous history of Mexico, a successful military revolution at the capital had almost universally been the signal for submission throughout the Republic. Not so on the present occasion. A majority of the citizens persistently sustained the Constitutional Government. When this was recognized in April, 1859, by the Government of The United States, its authority extended over a large majority of the Mexican States and people, including Vera Cruz, and all the other important sea-ports of the Republic. From that period our commerce with Mexico began to revive, and the Constitutional Government has afforded it all the protection in its power.

Meanwhile, the Government of Miramon still held sway at the capital and over the surrounding country, and continued its outrages against the few American citizens who still had the courage to remain within its power. To cap the climax, after the battle of



force to penetrate into the interior, where the Government of Miramon was to be found, with, or if need be, without the consent of the Juarez Government, though it was not doubted that this consent could be obtained. Never have I had a clearer conviction on any subject than of the justice, as well as wisdom, of such a policy. No other alternative was left, except the entire abandonment of our fellow-citizens who had gone to Mexico under the faith of Treaties to the systematic injustice, cruelty, and oppression of Miramon's Government. Besides, it is almost certain that the simple authority to employ this force would of itself have accomplished all our objects, without striking a single blow. The Constitutional Government would, then, ere this have been established at the city of Mexico, and would have been ready and willing, to the extent of its ability, to do us justice.

In addition, and I deem this a most important consideration, European Governments would have been deprived of all pretext to interfere in the territorial and domestic concerns of Mexico. We should thus have been relieved from the obligation of resisting, even by force, should this become necessary, any attempt by these Governments to deprive our neighbouring Republic of portions of her territory, a duty from which we could not shrink without abandoning the traditional and established policy of the American people. I am happy to observe that, firmly relying upon the justice and good faith of these Governments, there is no present danger that such a contingency will happen.

Having discovered that my recommendations would not be sustained by Congress, the next alternative was to accomplish, in some degree, if possible, the same objects by treaty stipulations with the Constitutional Government. Such Treaties were accordingly concluded by our late able and excellent Minister to Mexico, and on the 4th of January last were submitted to the Senate for ratification. As these have not yet received the final action of that body, it would be improper for me to present a detailed statement of their provisions. Still, I may be permitted to express the opinion in advance, that they are calculated to promote the agricultural, manufacturing, and commercial interests of the country, and to secure our just influence with an adjoining Republic as to whose fortunes and fate we can never feel indifferent; whilst at the same time they provide for the payment of a considerable amount towards the satisfaction of the claims of our injured fellow-citizens.

At the period of my inauguration I was confronted in Kansas by a revolutionary Government existing under what is called the "Topeka Constitution." Its avowed object was to subdue the territorial Government by force, and to inaugurate what was called the "Topeka Government" in its stead. To accomplish this object

an extensive military organization was formed, and its command intrusted to the most violent revolutionary leaders. Under these circumstances it became my imperative duty to exert the whole Constitutional Power of the Executive to prevent the flames of civil war from again raging in Kansas; which, in the excited state of the public mind, both North and South, might have extended into the neighbouring States. The hostile parties in Kansas had been inflamed against each other, by emissaries both from the North and the South, to a degree of malignity without parallel in our history. To prevent actual collision, and to assist the civil magistrates in enforcing the laws, a strong detachment of the army was stationed in the territory, ready to aid the marshal and his deputies when lawfully called upon as a *posse comitatus* in the execution of civil and criminal process. Still the troubles in Kansas could not have been permanently settled without an election by the people.

The ballot-box is the surest arbiter of disputes among freemen. Under this conviction every proper effort was employed to induce the hostile parties to vote at the election of delegates to frame a State Constitution, and afterwards at the election to decide whether Kansas should be a slave or free State.

The insurgent party refused to vote at either, lest this might be considered a recognition on their part of the territorial Government established by Congress. A better spirit, however, seemed soon after to prevail, and the two parties met face to face at the third election, held on the first Monday of January, 1858, for Members of the Legislature and State officers under the Lecompton Constitution. The result was the triumph of the Anti-slavery party at the polls. This decision of the ballot-box proved clearly that this party were in the majority, and removed the danger of civil war. From that time we have heard little or nothing of the Topeka Government.



of fraud, and what ought to be its consequences. If at the first two elections the majority refused to vote, it cannot be pretended that this refusal to exercise the elective franchise could invalidate an election fairly held under lawful authority, even if they had not subsequently voted at the third election. It is true that the whole Constitution had not been submitted to the people as I always desired; but the precedents are numerous of the admission of States into the Union without such submission. It would not comport with my present purpose to review the proceedings of Congress upon the Lecompton Constitution. It is sufficient to observe that their final action has removed the last vestige of serious revolutionary troubles. The desperate band recently assembled under a notorious outlaw in the southern portion of the territory, to resist the execution of the laws, and to plunder peaceful citizens, will, I doubt not, be speedily subdued and brought to justice.

Had I treated the Lecompton Constitution as a nullity and refused to transmit it to Congress, it is not difficult to imagine, whilst recalling the position of the country at that moment, what would have been the disastrous consequences, both in and out of the territory, from such a dereliction of duty on the part of the Executive.

Peace has also been restored within the territory of Utah, which at the commencement of my administration was in a state of open rebellion. This was the more dangerous, as the people, animated by a fanatical spirit and entrenched within their distant mountain fastnesses, might have made a long and formidable resistance. Cost what it might it was necessary to bring them into subjection to the Constitution and the laws. Sound policy, therefore, as well as humanity, required that this object should, if possible, be accomplished without the effusion of blood. This could only be effected by sending a military force into the territory sufficiently strong to convince the people that resistance would be hopeless, and at the same time to offer them a pardon for past offences on condition of immediate submission to the Government. This policy was pursued with eminent success, and the only cause for regret is the heavy expenditure required to march a large detachment of the army to that remote region, and to furnish it subsistence.

Utah is now comparatively peaceful and quiet, and the military force has been withdrawn, except that portion of it necessary to keep the Indians in check, and to protect the emigrant trains on their way to our Pacific possessions.

In my first annual message, I promised to employ my best exertions, in co-operation with Congress, to reduce the expenditures of the Government within the limits of a wise and judicious

economy. An overflowing treasury had produced habits of prodigality and extravagance which could only be gradually corrected. The work required both time and patience. I applied myself diligently to this task from the beginning, and was aided by the able and energetic efforts of the heads of the different executive departments. The result of our labours in this good cause did not appear in the sum total of our expenditures for the first two years, mainly in consequence of the extraordinary expenditure necessarily incurred in the Utah expedition, and the very large amount of the contingent expenses of Congress during this period. These greatly exceeded the pay and mileage of the members. For the year ending June 30, 1858, whilst the pay and mileage amounted to 1,490,214 dollars, the contingent expenses rose to 2,093,309 dollars 79 cents, and for the year ending June 30, 1859, whilst the pay and mileage amounted to 859,093 dollars 66 cents, the contingent expenses amounted to 1,431,565 dollars 78 cents. I am happy, however, to be able to inform you that during the last fiscal year ending June 30, 1860, the total expenditures of the Government in all its branches, legislative, executive, and judicial, exclusive of the public debt, were reduced to the sum of 55,402,465 dollars 46 cents. This conclusively appears from the books of the Treasury. In the year ending June 30, 1858, the total expenditure, exclusive of the public debt, amounted to 71,901,129 dollars 77 cents, and that for the year ending June 30, 1859, to 66,346,226 dollars 13 cents. Whilst the books of the Treasury show an actual expenditure of 59,848,474 dollars 72 cents for the year ending June 30, 1860, including 1,040,667 dollars 71 cents for the contingent expenses of Congress, there must be deducted from this amount the sum of 4,296,009 dollars 26 cents, with the interest upon it of 150,000, dollars appropriated by the Act of February 15, 1860, "for the purpose of supplying the



dollars for this reduction and for other causes, it may be safely asserted that the sum of 61,000,000 dollars, or, at the most, 62,000,000 dollars, is amply sufficient to administer the government and to pay the interest on the public debt, unless contingent events should hereafter render extraordinary expenditures necessary.

This result has been attained in a considerable degree by the care exercised by the appropriate departments in entering into public contracts. I have myself never interfered with the award of any such contract except in a single case, with the Colonisation Society, deeming it advisable to cast the whole responsibility in each case on the proper head of the department, with the general instruction that these contracts should always be given to the lowest and best bidder. It has ever been my opinion that public contracts are not a legitimate source of patronage, to be conferred upon personal or political favourites; but that, in all such cases, a public officer is bound to act for the Government as a prudent individual would act for himself.

It is with great satisfaction I communicate the fact that since the date of my last annual message not a single slave has been imported into The United States in violation of the laws prohibiting the African Slave Trade. This statement is founded upon a thorough examination and investigation of the subject. Indeed, the spirit which prevailed some time since among a portion of our fellow-citizens in favour of this trade seems to have entirely subsided.

I also congratulate you upon the public sentiment which now exists against the crime of setting on foot military expeditions within the limits of The United States, to proceed from thence and make war upon the people of unoffending States with whom we are at peace. In this respect a happy change has been effected since the commencement of my administration. It surely ought to be the prayer of every Christian and patriot that such expeditions may never again receive countenance in our country, or depart from our shores.

It would be a useless repetition to do more than refer with earnest commendation to my former recommendations in favour of the Pacific railroad; of the grant of power to the President to employ the naval force in the vicinity for the protection of the lives and property of our fellow-citizens passing in transit over the different Central American routes against sudden and lawless outbreaks and depredations; and also to protect American merchant-vessels, their crews and cargoes, against violent and unlawful seizure and confiscation in the ports of Mexico and the South American Republics, when these may be in a disturbed and revolutionary condition. It is my settled conviction that, without such a

power, we do not afford that protection to those engaged in the commerce of the country which they have a right to demand.

I again recommend to Congress the passage of a law, in pursuance of the provisions of the Constitution, appointing a day certain previous to the 4th March in each year of an odd number, for the election of representatives throughout all the States. A similar power has already been exercised, with general approbation, in the appointment of the same day throughout the Union for holding the election of electors for President and Vice-President of The United States. My attention was earnestly directed to this subject from the fact that the Thirty-fifth Congress terminated on the 3rd March, 1859, without making the necessary appropriation for the service of the Post-Office Department. I was then forced to consider the best remedy for this omission, and an immediate call of the present Congress was the natural resort. Upon inquiry, however, I ascertained that 15 out of the 33 States composing the Confederacy were without representatives, and that consequently these 15 States would be disfranchised by such a call. These 15 States will be in the same condition on the 4th March next. 10 of them cannot elect representatives, according to existing State laws, until different periods, extending from the beginning of August next until the months of October and November. In my last message I gave warning that in a time of sudden and alarming danger the salvation of our institutions might depend upon the power of the President immediately to assemble a full Congress to meet the emergency.

It is now quite evident that the financial necessities of the Government will require a modification of the tariff during your present session for the purpose of increasing the revenue. In this aspect, I desire to reiterate the recommendation contained in my last two annual messages in favour of imposing specific, instead of



difference between their real and fictitious value, and to this extent we are defrauded.

The temptations which *ad valorem* duties present to a dishonest importer are irresistible. His object is to pass his goods through the Custom-House at the very lowest valuation necessary to save them from confiscation. In this he too often succeeds, in spite of the vigilance of the revenue officers. Hence the resort to false invoices, one for the purchaser and another for the Custom-House, and to other expedients to defraud the Government. The honest importer produces his invoice to the collector, stating the actual price at which he purchased the articles abroad. Not so the dishonest importer, and the agent of the foreign manufacturer. And here it may be observed that a very large proportion of the manufactures imported from abroad are consigned for sale to commission merchants, who are mere agents employed by the manufacturers. In such cases no actual sale has been made to fix their value. The foreign manufacturer, if he be dishonest, prepares an invoice of the goods, not at their actual value, but at the very lowest rate necessary to escape detection. In this manner the dishonest importer and the foreign manufacturer enjoy a decided advantage over the honest merchant. They are thus enabled to undersell the fair trader, and drive him from the market. In fact, the operation of this system has already driven from the pursuits of honourable commerce many of that class of regular and conscientious merchants whose character throughout the world is the pride of our country.

The remedy for these evils is to be found in specific duties, so far as this may be practicable. They dispense with any inquiry at the Custom-House into the actual cost or value of the article, and it pays the precise amount of duty previously fixed by law. They present no temptations to the appraisers of foreign goods, who receive but small salaries, and might, by undervaluation in a few cases, render themselves independent.

Besides, specific duties best conform to the requisition in the Constitution, that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." Under our *ad valorem* system such preferences are to some extent inevitable, and complaints have often been made that the spirit of this provision has been violated by a lower appraisement of the same articles at one port than at another.

An impression strangely enough prevails, to some extent, that specific duties are necessarily protective duties. Nothing can be more fallacious. Great Britain glories in free trade, and yet her whole revenue from imports is at the present moment collected under a system of specific duties. It is a striking fact in this

connection, that in the Commercial Treaty of January 23, 1860, between France and England, one of the Articles provides that the *ad valorem* duties which it imposes shall be converted into specific duties within 6 months from its date, and these are to be ascertained by making an average of the prices for 6 months previous to that time. The reverse of the propositions would be nearer to the truth, because a much larger amount of revenue would be collected by merely converting the *ad valorem* duties of a tariff into equivalent specific duties. To this extent the revenue would be increased, and in the same proportion the specific duty might be diminished.

Specific duties would secure to the American manufacturer the incidental protection to which he is fairly entitled under a revenue tariff, and to this surely no person would object. The framers of the existing tariff have gone further, and in a liberal spirit have discriminated in favour of large and useful branches of our manufactures, not by raising the rate of duty upon the importation of similar articles from abroad, but, what is the same in effect, by admitting articles free of duty which enter into the composition of their fabrics.

Under the present system, it has been often truly remarked that this incidental protection decreases when the manufacturer needs it most, and increases when he needs it least, and constitutes a sliding scale which always operates against him. The revenues of the country are subject to similar fluctuations. Instead of approaching a steady standard, as would be the case under a system of specific duties, they sink and rise with the sinking and rising prices of articles in foreign countries. It would not be difficult for Congress to arrange a system of specific duties which would afford additional stability both to our revenue and our manufactures, and without injury or injustice to any interest of the country might be accomplished by ascertaining the average [illegible] years at the place of export- [illegible] upon it

of War, of the Navy, of the Interior, and of the Postmaster-General. The recommendations and suggestions which they contain are highly valuable, and deserve your careful attention.

The report of the Postmaster-General details the circumstances under which Cornelius Vanderbilt, on my request, agreed, in the month of July last, to carry the ocean mails between our Atlantic and Pacific coasts. Had he not thus acted, this important intercommunication must have been suspended, at least for a season. The Postmaster-General had no power to make him any other compensation than the postages on the mail matter which he might carry. It was known at the time that these postages would fall far short of an adequate compensation, as well as of the sum which the same service had previously cost the Government. Mr. Vanderbilt, in a commendable spirit, was willing to rely upon the justice of Congress to make up the deficiency; and I, therefore, recommend that an appropriation may be granted for this purpose.

I should do great injustice to the Attorney-General, were I to omit the mention of his distinguished services in the measures adopted and prosecuted by him for the defence of the Government against numerous and unfounded claims to land in California, purporting to have been made by the Mexican Government previous to the Treaty of Cession. The successful opposition to these claims has saved The United States public property, worth many millions of dollars, and to individuals holding title under them to at least an equal amount.

It has been represented to me, from sources which I deem reliable, that the inhabitants in several portions of Kansas have been reduced nearly to a state of starvation, on account of the almost total failure of their crops, whilst the harvests in every other portion of the country have been abundant. The prospect before them for the approaching winter is well calculated to enlist the sympathies of every heart. The destitution appears to be so general that it cannot be relieved by private contributions, and they are in such indigent circumstances as to be unable to purchase the necessaries of life for themselves. I refer the subject to Congress. If any constitutional measure for their relief can be devised, I would recommend its adoption.

I cordially commend to your favourable regard the interests of the people of this district. They are eminently entitled to your consideration, especially since, unlike the people of the States, they can appeal to no Government except that of the Union.

JAMES BUCHANAN.

Washington, December 3, 1860.

CORRESPONDENCE between Great Britain, France, Sardinia, and Switzerland, respecting the proposed Annexation of Savoy and Nice to France.—1859, 1860.*

No. 1.—*Captain Harris to Lord J. Russell.*—(*Received July* 5.)

(Extract.) *Berne, July* 1, 1859.

HAVING been confined to my room by fever during the last fortnight, I have not had my usual interviews with the President of the Confederation; but this morning he called upon me by appointment, being anxious, he said, to converse with me on the rumour of the projected annexation of Savoy to France, in the event of the King of Piedmont obtaining an extension to his dominions in Italy.

The President said, that the Swiss Chargé d'Affaires in Paris had been instructed to demand explanation on the subject; that the Sardinian Minister here positively denied that there was any such engagement.

I pointed out to the President the despatches Nos. 480 and 507 in the Blue Book on the Affairs of Italy, showing the steps which Her Majesty's Government had taken, through Lord Cowley, to ascertain the truth of this report, which had, however, not led to a very distinct refutation of it on the part of the French Minister.

The President said he wished me to impress on Her Majesty's Government that it was of vital importance to the safety and independence of Switzerland that Savoy, and especially "Haute Savoie," should never be annexed to France; that if that were to take place, her flank would be laid completely open, and that, probably, Geneva would soon follow.

The President said he did not wish Her Majesty's Government



No. 2.—Earl Cowley to Lord J. Russell.—(Received July 5.)

(Extract.) *Paris, July 4, 1859.*

I HAVE afforded Count Walewski an opportunity of giving me as much information as he might choose respecting the intentions attributed to the Emperor of annexing Savoy to France, to which Captain Harris's despatch of the 1st instant, forwarded by this messenger, relates.

I regret to say that his Excellency's language was not over satisfactory. He stated, indeed, that he could give me the positive assurance that there was no understanding whatever upon the subject between France and Sardinia, but he did not deny that the question had been more than once discussed, and that the Emperor had entertained the idea that if Sardinia was to become a large Italian Kingdom, it was not unreasonable to expect that she should make territorial concessions elsewhere.

I said that I trusted that the Emperor for his own sake, and for the sake of his reputation with Europe, would abandon any such idea of territorial aggrandisement, if he still harboured it.

Lord J. Russell. COWLEY.

No. 3.—Lord J. Russell to Earl Cowley.

MY LORD, *Foreign Office, July 5, 1859.*

I HAVE to state to your Excellency, with reference to the report contained in your despatch of the 4th instant, of a conversation which you had had with Count Walewski, that Her Majesty's Government have learned with extreme concern that the question of annexing Savoy to France has been in agitation.

The Emperor's declaration at Milan that the "enemies" of the Emperor represented him as making war to aggrandize the territory of France, gave great satisfaction in this country. But in Germany it was confidently said that this declaration would not be adhered to.

If Savoy should be annexed to France, it will generally be supposed that the left bank of the Rhine, and the "natural limits," will be the next object; and thus the Emperor will become an object of suspicion to Europe, and kindle the hostility of which his uncle was the victim.

In conforming your language to Count Walewski to the tenor of this despatch, your Excellency will make him understand that the observations of Her Majesty's Government are dictated by the most friendly feelings towards the Emperor.

Count Persigny spoke to me to-day on the same subject, and I made to him the same remarks I have made to your Lordship. He dwelt on the little value of Savoy, a bare rock, as he said, but which might avail Piedmont for an attack on France if Sardinia should

become a great Power. I purposely abstained from any discussion of the value of Savoy. That part of the subject may be reserved for future comment. I am, &c.

Earl Cowley. J. RUSSELL.

No. 4.—Earl Cowley to Lord J. Russell.—(Received July 9.)

My Lord, *Paris, July 8, 1859.*

In the course of the interview which I had with Count Walewski, this afternoon, his Excellency said that I might give your Lordship the assurance that the Emperor had abandoned all idea of annexing Savoy to France.

I said that Her Majesty's Government would receive this intelligence with unmixed satisfaction, and that I rejoiced that the Emperor had relinquished a project, the success of which would have been of no real value to France, and would seriously have affected His Majesty's position in the eyes of Europe.

I have, &c.

Lord J. Russell. COWLEY.

No. 5.—Lord J. Russell to Earl Cowley.

My Lord, *Foreign Office, July 9, 1859.*

I have received your Excellency's despatch of yesterday, stating that Count Walewski had informed you that you might give me the assurance that the Emperor had abandoned the idea of annexing Savoy to France; and I have to instruct your Excellency to state to Count Walewski that Her Majesty's Government highly appreciate the spirit which has prompted His Imperial Majesty thus distinctly to disclaim a project which, while it would have contributed no real benefit to France, would have very materially affected the Emperor's reputation in Europe. For the Powers of Europe not



measure allayed by your Lordship's declaration in Parliament, stating that France had no intention of making any such acquisition. The President has occasionally expressed to me a fear lest the formation of the proposed Italian Confederation, and the position of the King of Sardinia in it, might interfere with the arrangements made in the Treaties of 1815, for the protection of the south-western frontier of Switzerland.

My answer has been that if the Italian Confederation were formed, they would have difficulties enough to contend with, without raising one in that quarter; and that no negotiated change respecting the neutral territory could take effect without the consent of the Powers signataries of the Treaties of 1815.

The President told me yesterday that the Federal Council had, on the meeting of the Plenipotentiaries at Zurich, addressed notes to Paris, Turin, and Vienna, inquiring whether the above-mentioned subject would be entered upon at Zurich. They received an answer in the negative from Vienna, but no reply from Paris or Turin.

Lord J. Russell. E. A. J. HARRIS.

No. 7.—Captain Harris to Lord J. Russell.—(Rec. November 15.)

MY LORD, *Berne, November 12, 1859.*

THE President of the Swiss Confederation informs me that some anxiety is still felt by the Federal Council respecting the rumoured transfer of Savoy, alluded to in my despatches of July 1 and of September 26.

They have accordingly drawn up a memorial, showing the importance which they attach to the integrity of the south-western frontier of Switzerland being well secured, as contemplated by the Treaties of 1815. This memorial is to be addressed officially to the great Powers signataries of those Treaties, at the Congress which it is said is about to assemble, should the Swiss Government have reason to suppose that the subject will be mooted there.

The memorial will in a few days be printed in French, as well as German, when I will forward a copy to your Lordship.

I have, &c.

Lord J. Russell. E. A. J. HARRIS.

No. 8.—Captain Harris to Lord J. Russell.—(Rec. November 22.)

MY LORD, *Berne, November 19, 1859.*

THE President of the Confederation tells me he will soon address a note to the great Powers, inquiring whether neutral territory of Savoy is to form part of the proposed Italian Confederation.

I have, &c.

Lord J. Russell. E. A. J. HARRIS.

No. 9.—Captain Harris to Lord J. Russell.—(Rec. November 24.)
(Extract.) *Berne, November 21, 1859.*

I HAVE the honour to transmit to your Lordship the copy of a despatch which I received last night, addressed to me by the President of the Confederation on the part of the Federal Council, relative to the neutral territory of Savoy.

I also inclose a copy of the Mémoire alluded to in the despatch.

I have reason to believe that similar communications have been made to the Representatives of the other Powers who signed the Treaties of 1815.

I have had frequently occasion to allude to the anxiety felt by the Swiss Government upon this subject, their reasons for which are fully set forth in the accompanying despatch and Mémoire.

I will not obtrude on your Lordship's better judgment my opinions on the statements contained in those documents; but occupied as your Lordship's mind is with weighty matters elsewhere, I may venture briefly to recall to your memory the events which, since 1815, have had an important influence on the position of Switzerland.

The adoption of the Constitution of 1848, the result of the gradual advance of the Radical party since the year 1831, although it shook the social relations of this country to their centre, and inflicted hardships upon many, nevertheless by conferring greater power on the Executive, and establishing more uniformity in legislation and finance, imparted a vigour and prosperity to Switzerland which she had never heretofore possessed. Amongst the advantages reaped has been the development of her military strength. In the winter of 1856–57, during the crisis of the Neuchâtel affair, this country placed on foot within a month an army of 200,000 men, well provided with artillery, and confidently prepared to cope with

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at the same time conciliatory, conduct observed by her during late events secure for her the goodwill of the belligerent Powers.

The severance of Neuchâtel from Prussia, although I have reason to believe that amicable relations are perfectly restored between that country and Switzerland, will probably indispose the former from taking a direct interest in affairs here.

But the most important event affecting the foreign relations of Switzerland during past years has undoubtedly been the transfer of Lombardy to the Court of Turin. It may reasonably be expected that those differences both in civil and ecclesiastical matters between the Tessin and Austria, will not be revived with a country possessed of free institutions. It is, moreover, obvious, looking at the relative geographical position of the two countries—Switzerland, as it were, forming the bulwark of Northern Italy, whilst the latter supplies her with produce most essential to her prosperity—that these two nations ought at once to enter into the most frank and cordial relations of amity, in which spirit alone I believe the questions raised in the despatch and Mémoire can arrive at a speedy and satisfactory conclusion.

Lord J. Russell. E. A. J. HARRIS.

(*Inclosure* 1.)—*MM. Staempfli and Schiess to Captain Harris.*

Berne, le 18 *Novembre*, 1859.

La Paix ayant été signée à Zurich, on ne tardera pas à s'occuper de la réunion d'un Congrès.

Le Conseil Fédéral n'a aucune connaissance de la teneur du programme fixé pour les déliberations du Congrès, mais ne saurait douter que la mission principale qui lui incombera sera de régler l'état des choses en Italie, ce qui fait qu'on s'y occupera entre autres de la formation d'une Confédération Italienne prévue dans les Préliminaires de Villafranca.

Le Conseil Fédéral est très-éloigné de vouloir s'immiscer dans des negociations qui ne concernent que les interêts d'autres Etats, mais il doit tenir en revanche à être entendu et appelé à participer à des délibérations qui devraient toucher aux rapports internationaux de la Suisse, tels qu'ils ont été constitués par les Traités.

Or, l'on ne saurait disconvenir que les rapports internationaux de la Suisse seraient atteints par la formation d'une Confédération Italienne, alors que la Sardaigne devrait y être comprise avec les parties de la Savoie incorporées à la neutralité Suisse.

Les stipulations en vigueur des Traités portent: "que toutes les fois que les Puissances voisines de la Suisse se trouveront en état d'hostilités ouvertes ou imminentes, les troupes de Sa Majesté le Roi de Sardaigne qui pourraient se trouver dans les provinces neutralisées, se retireront et pourront à cet effet passer par le

Valais, si cela devient nécesaire; qu'aucunes autres troupes armées d'aucune Puissance ne pourront y stationner ni les traverser, sauf celles que la Confédération Suisse jugerait à propos d'y placer."

Il est dès-lors de toute évidence que la position des Provinces Savoyardes sera essentiellement modifiée vis-à-vis de la Suisse, si ces provinces doivent faire partie de la Confédération Italienne. Car il n'est pas à douter que cette Confédération n'aura pas seulement pour objet des intérêts politiques et commerciaux, mais qu'elle embrassera aussi principalement les intérêts militaires de l'Italie. Dans ce cas là les troupes de la Confédération pourront-elles pénétrer dans les provinces neutralisées ou y stationner? Est-ce que ces troupes prétendront à l'égal des Piémontaises au droit de se retirer par le Valais? La Confédération même réclamera-t-elle des attributions militaires dans les provinces neutralisées, comme, par exemple, la faculté d'y établir des fortifications, et quelles concessions lui seront faites sur ce territoire?

Ces questions ont pour nous une grande importance, d'autant plus que des Etats de premier rang doivent prendre part aussi à l'alliance Italienne, et que pour ce qui concerne la Savoie, leurs troupes se trouveraient au bénéfice des conditions susmentionnées. Quant à la Suisse, dont les rapports militaires avec la Savoie ont été fixés par les Traités, elle se trouverait à l'avenir non plus seulement en face de l'ancien Royaume de Sardaigne, mais de toute la Confédération Italienne, c'est-à-dire, également d'une Puissance de premier ordre.

Le Conseil Fédéral n'ignore assurément pas que les rapports conventionnels entre la Suisse et la Savoie neutralisée ne sauraient en droit être changés sans l'assentiment de la première, et il a la ferme conviction que jamais les Puissances ne refuseront de reconnaître un tel principe.

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sances la légitime demande que pour le cas où la formation de la Confédération Italienne viendrait à être agitée au sein du prochain Congrès, et que celle-ci dût comprendre aussi les parties de la Savoie incorporées à la neutralité Helvétique, la Suisse soit admise aux délibérations du Congrés en tant qu'elles auront pour objet les rapports avec les territoires neutralisés de la Savoie.

Il pourrait à la même occasion être aussi question d'un autre point qui concerne la neutralité de la Savoie, en vue de lui donner une détermination plus précise ; nous voulons parler du chemin-de-fer dernièrement construit de Culoz à Chambery, à l'égard duquel on peut se demander s'il devrait continuer à faire partie du territoire neutralisé. Une rédaction précise aurait pour effet de prévenir dans la suite des interprétations divergentes et d'éviter à la Suisse des réclamations et des reproches dont elle n'a pas été toujours épargnée le printemps dernier, alors qu'elle n'a pas voulu reconnaître l'obligation d'empêcher le passage des troupes Françaises par le dit chemin-de-fer.

Le Conseil Fédéral prie M. le Ministre Plénipotentiaire de Sa Majesté Britannique de bien vouloir communiquer à son Gouvernement les observations qui précèdent, et il joint en même temps ici 8 exemplaires du Mémoire élaboré par ses soins, concernant les rapports existants entre la Suisse et la Savoie neutralisée ; saisissant, &c.

Au nom du Conseil Fédéral,
Le Président, STAEMPFLI.
Le Chancelier, SCHIESS.

Captain Harris.

(*Inclosure* 2.)—*Pamphlet entitled "Mémoire sur les Rapports entre la Suisse et la Savoie Neutralisée."*

No. 10.—*Earl Cowley to Lord J. Russell.*—(*Rec. December* 10.)

My Lord, *Paris, December* 9, 1859.

Dr. Kern, the Swiss Envoy, called upon me this morning, and asked whether I could give him any information respecting the opinion formed by Her Majesty's Government on the contents of a note addressed by the Federal Government, in the course of last month, to the great Powers of Europe invited to meet in Congress, and having for its object to reserve the right of Switzerland to be consulted, should the deliberations of the Congress lead to any alteration of the position of the Duchy of Savoy towards Switzerland, which, in the opinion of the Federal Government, would arise, should Savoy become a component part of the projected Italian Confederation, or should it be transferred to some other Power.

I replied that I had not heard anything from your Lordship upon the subject.

Dr. Kern took this opportunity of placing in my hands a Mémoire giving a history of the relations which have existed, or which now exist, between Switzerland and Savoy. In case your Lordship has not a copy of this document I do myself the honour of inclosing one, as it may prove useful for reference. I have, &c.

Lord J. Russell. COWLEY.

(*Inclosure.*)—*Pamphlet entitled "Mémoire sur les Rapports entre la Suisse et la Savoie Neutralisée."*

No. 11.—*Captain Harris to Lord J. Russell.*—(*Rec. December* 25.)

My Lord, *Berne, December* 22, 1859.

The President of the Confederation informed me this morning that the Federal Council had received from the Austrian Government an answer to the despatch and memorial respecting the neutral territory of Savoy similar to those which I had the honour to transmit to your Lordship in my despatch dated the 21st of November.

The Austrian Government promises that in the event of this question being mooted in the Congress, they will use their utmost endeavours to maintain the arrangements which protect the independence and neutrality of Switzerland.

The Federal Council have also received an answer from Sweden to the same effect, but couched in more general terms.

I have, &c.

Lord J. Russell. E. A. J. HARRIS.

No. 12.—*Lord J. Russell to Captain Harris.*

Sir, *Foreign Office, January* 9, 1860.

With reference to your despatch of the 21st of November last,

[redacted]

No. 13.—*Mr. Grey to Lord J. Russell.*—(*Received January* 10.)

MY LORD, *Paris, January* 9, 1860.

DR. KERN, the Swiss Minister at this Court, has informed me confidentially that in consequence of the rumour of the approaching cession of Savoy by Sardinia to France having lately been renewed to such an extent, and having reached him from so many quarters, he had thought it advisable to seek an interview with M. Baroche, and to question his Excellency on the subject, which he felt himself justified in doing, as it had repeatedly been mentioned in the public prints. M. Baroche received him this afternoon, and in reply to Dr. Kern's inquiry whether there was any truth in the above rumour, said, "Cette question n'a aucun intérêt, ni actuel ni prochain;" but that should any change occur hereafter, he thought it only just that it should only be made after a complete understanding between France and Switzerland, and with due regard to those provisions of the Treaties of 1815 which stipulated that in case of the cession of Savoy to France, a portion of it sufficient to insure a good line of defence should be at the same time ceded to Switzerland.

Dr. Kern said that Switzerland would of course prefer the *status quo*, but that he was glad to hear what his Excellency said with regard to the Treaties of 1815; and he left M. Baroche apparently satisfied with the assurances he had received, although M. Baroche's expression, "should any change occur hereafter," was open to another interpretation. He appears, however, subsequently to have been alarmed by one of his colleagues, who repeated to him that he was sure the cession of Savoy to France was already determined upon by Sardinia, in return for which France was to sanction the annexation of the Duchies and Romagna to Sardinia, and that M. Baroche, in giving him the assurances quoted above, had spoken in ignorance of the real state of affairs.

Dr. Kern on this came to me, and requested me to state the above to your Lordship, more especially as Switzerland only had a Consular Agent in London. He added that he thought it probable the Swiss Government would address a note to Captain Harris upon this subject, containing a full statement of the rights of Switzerland in Savoy, and that Captain Harris would be requested to forward it to your Lordship.

The question, Dr. Kern repeated again and again, was so serious and so materially affected, not only the independence, but the very existence of Switzerland, that he hoped Her Majesty's Government would give it their earnest consideration in that spirit of friendship which Great Britain had so often shown towards his country.

Dr. Kern further promised me that should he learn anything new or certain upon this subject, he would not fail to let me know.

I have, &c.

Lord J. Russell. W. G. GREY.

No. 14.—*Captain Harris to Lord J. Russell.*—(*Rec. January* 20.)

MY LORD, *Berne, January* 17, 1860.

I HAVE the honour to inclose the copy of a despatch which I addressed to the President and Federal Council, in obedience to the instructions contained in your Lordship's despatch dated January 9, relative to the neutral territory of Savoy; also the answer to my despatch dated the 13th instant, which I received last evening.

I shall have occasion to write to your Lordship more in detail on this subject, by the surer conveyance of the messenger.

I have, &c.

Lord J. Russell. E. A. J. HARRIS.

(*Inclosure* 1.)—*Captain Harris to M. Frey-Herosée.*

EXCELLENCY, *Berne, January* 12, 1860.

I HAVE the honour to inform your Excellency and the High Federal Council, that with reference to the note and memorial relative to the neutral territory of Savoy, addressed to me by your Excellency's predecessor, and copies of which I transmitted to Her Majesty's Government on the 21st of last November, I have been instructed by Her Majesty's Secretary of State for Foreign Affairs to assure your Excellency and the High Federal Council that Her Majesty's Government entirely concur as to the propriety of providing, if circumstances should render it necessary to do so, against the neutrality of Savoy being infringed by any of the new arrangements resulting from the late war, and that they are anxious, as they ever have been, to do all in their power to maintain the security and independence of Switzerland. I avail, &c.

M. Frey-Herosée. E. A. J. HARRIS.

(*Inclosure* 2.)—*MM. Frey-Herosée and Schiess to Captain Harris.*

[redacted]

No. 15.—Captain Harris to Lord J. Russell.—(Rec. January 25.)
(Extract.) *Berne, January 19, 1860.*

In my despatch dated the 17th instant, I had the honour to inform your Lordship that I should take advantage of the departure of Mr. Burnley, on leave of absence, to transmit certain details relative to the neutral territory of Savoy.

Your Lordship's despatch dated the 9th instant caused great satisfaction to the Swiss Government, for a few hours previous to its receipt M. Frey-Herosée, the recently elected President of the Confederation, called upon me, and entered on the subject with the same warmth and anxiety as his predecessor.

He stated that rumours respecting the cession of Savoy to France were gaining ground; that a considerable agitation prevailed on the subject in the Cantons of Vaud and Geneva; that the Press was teeming with newspaper articles and pamphlets respecting it, discussing it in every possible point of view; that during the last week a report had gained consistency to the effect that as the Congress was not likely to meet, England and France were about to come to an agreement, according to which, in return for still further acquisitions in Italy, the King of Sardinia was to cede Nice and Savoy to France.

I here interrupted him by saying, that the straightforward course pursued by Her Majesty's Government ought to have prevented any impression being made by these absurd rumours. I reminded him of the assurances which I had repeatedly given to the Federal Council of the interest which England takes in the independence and security of Switzerland; of the steps taken by your Lordship's predecessor (as appeared in the published correspondence) to ascertain, through Lord Cowley in Paris, whether there was any truth in the report of the proposed cession of Savoy to France; and, more recently, of your Lordship's declaration in the House of Commons, that France entertained no project of annexing Savoy.

The President admitted that this gave himself and his colleagues full confidence as far as England was concerned; and then he reverted to the prevailing agitation in the public mind of Switzerland on the subject, and respecting the urgent necessity of this country having a strong military frontier facile of occupation, with a moderate number of troops, in order to enforce her rights of neutrality if required. With this view he referred to the map, a copy of which I transmitted to your Lordship in my despatch dated the 1st July, 1859, in which a frontier line is drawn from the Rhone to the range of Mont Blanc. He said that he trusted that if any transfer of territory were to take place, the Great Powers would thus practically carry out their friendly intentions for securing the independence of Switzerland. He referred, also, to the vulnerable point in the

frontier rampart of the Jura, owing to the possession by France of the district of Gex. He said the pretext put forward at the time for this interpolation, was a desire expressed by Talleyrand that France should possess the residence of Voltaire at Ferney, a desire with which I imagine the French Statesmen of the Restoration had little sympathy; the real motive having been to give France access to the Great Simplon road, so important at that time.

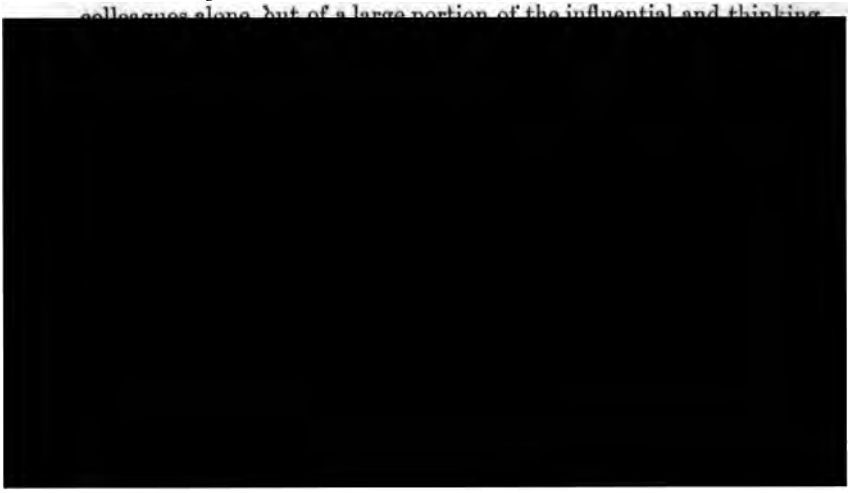
There is no doubt that the possession of this district would be of great value to Switzerland in a strategic point of view, besides setting at rest the apparently interminable question of the Vallée des Dappes.

The President added that a considerable party existed in the neutral territory of Savoy favourable to joining the Swiss Confederation, but that he doubted whether such a step would be advantageous to Switzerland, since it would introduce a powerful adjunct to the Roman Catholic Ultramontane element, with which his Government already found a difficulty in dealing, and that it would be more prudent to adopt the more circumscribed frontier as marked in the map.

I told the President that I had no authority to deal with these prospective questions, but that in any matter relating to the security and independence of Switzerland, he might feel assured that Her Majesty's Government would act openly, and with the strongest regard for her interests.

I have seen the President since I communicated to him the substance of your Lordship's despatch of the 9th instant, with which he expressed himself greatly satisfied.

I have reason to believe that the remarks which he made to me were the expression of the ideas and opinions, not of himself and his colleagues alone, but of a large portion of the influential and thinking



I inquired whether M. Kern, the Swiss Chargé d'Affaires in Paris, had full instructions on this subject.

The President replied that he had.

M. Kern enjoys some intimacy with the Emperor from former acquaintance in Switzerland.

Lord J. Russell. E. A. J. HARRIS.

No. 16.—*Earl Cowley to Lord J. Russell.*—(*Received January* 26.)

My Lord, *Paris, January* 25, 1860.

Since I addressed your Lordship yesterday on the subject of the annexation of Savoy to France, Dr. Kern has again called upon me, and informed me that from all the information which reaches him, he cannot doubt that active measures are going on to ensure the realization of this project. His Government has become much alarmed in consequence, and he has orders to state to the French Government and to his colleagues, that Switzerland will protest against any alteration of the existing state of things on her western frontier, brought about without her concurrence.

The Swiss Government, Dr. Kern said, had received satisfactory assurances from the Great Powers of their intention to uphold the interests of Switzerland. He was desired, he added, to express to me the hope that Her Majesty's Government will see fit to remonstrate against the supposed intentions of the Emperor of the French before it would be too late.

I told Dr. Kern that I would communicate to your Lordship the observations which he had made to me.

He requested me to forward to your Lordship the inclosed copies of a pamphlet which placed the question of Savoy, as far as it regarded Switzerland, in a very clear light. The pamphlet is not published by the Swiss Government, but they approve of the sense in which it is written. I have, &c.

Lord J. Russell. COWLEY.

(*Inclosure.*)—*Pamphlet entitled "La Suisse dans la Question de Savoie."*

No. 17.—*Earl Cowley to Lord J. Russell.*—(*Received January* 26.)

(Extract.) *Paris, January* 25, 1860.

It is more than probable that your Lordship has been made acquainted with a rumour prevalent to a certain extent in Paris, that there exists a secret Treaty between France and Sardinia entered into before the late war, by which the latter binds herself, in case her territory should be considerably increased in Italy by the events of the war, to cede Savoy to France.

I have no reason to believe in the existence of this Treaty, and

for many reasons am inclined to doubt it; still I cannot take upon myself to affirm that some sort of engagement or understanding respecting Savoy has not been entered into between the two Governments.

But let this be as it may, it is my duty to call your Lordship's attention to the fact that the question of the annexation of Savoy to France is beginning to occupy the public mind very seriously, and I cannot doubt is more or less in the contemplation of the French Government, should the Duchies, and more particularly the Romagna, be annexed to Sardinia.

I inclose an article from the "Patrie."

Lord J. Russell. COWLEY.

(*Inclosure.*)—*Extract from the "Patrie."*

LES VŒUX DE LA SAVOIE.—Au commencement de l'année dernière, nous mîmes plus d'empressement à poser la question d'Italie que nous n'en avons mis cette année à aborder la question de Savoie. C'est qu'alors il s'agissait de porter secours à une nationalité opprimée qui ne pouvait être sauvée que par nous, et dans ce cas la France ne devait pas se faire attendre. Aujourd'hui, il s'agit d'un intérêt qu'on peut croire personnel, et nous avons voulu, avant de nous prononcer, que le doute fût presque impossible, et que l'évidence eût parlé.

Les journaux, les correspondances, les voyageurs sont d'accord pour affirmer que le vœu de la Savoie est d'être Française. Elle l'est par la langue, elle l'est par les mœurs; pourquoi ne le serait-elle pas de nom et de fait? Elle le fut, et comment cessa-t-elle de l'être? Par la force, uniquement par la force. Mais les Traités de 1815 n'ont pu changer la nature des choses, et il ne leur a pas plus



devoir. Est-ce une raison pour repousser les vœux de populations qui veulent se donner à elle précisément en vertu du principe pour lequel nous venons de combattre? Ce ne serait plus du désintéressement, et ce serait une rare inconséquence.

Sur quoi d'ailleurs serait fondé ce refus? Il est vrai que le Piémont est notre allié, et que son Roi chevaleresque a droit à notre admiration et à toutes nos sympathies. Ses soldats sont les frères d'armes des nôtres, et, malgré la disproportion des territoires, nous attachons un prix véritable à son alliance. Mais il faut voir au vrai l'état de choses. Le Piémont s'agrandit, grâce à Magenta et à Solferino, du côté où le portait depuis si longtemps son ambition légitime. Il devient la Puissance Italienne par excellence, le conseil et l'épée de l'Italie. Dans cette nouvelle et glorieuse évolution, il est vraisemblable qu'il entraînerait encore moins la Savoie qu'il ne l'a entraînée jusqu'à présent. Les populations Savoisiennes deviendraient de plus en plus pour le Piémont un élément étranger. Avec cette intelligence politique dont Victor Emmanuel et ses principaux hommes d'Etat ont récemment donné tant de preuves, on comprendra certainement à Turin que ce sont les mêmes causes, dans des circonstances différentes, qui poussent le Piémont vers l'Italie et la Savoie vers la France.

Dira-t-on que c'est la richesse de la Savoie qui nous attire? C'est un des pays les plus pauvres de l'Europe.

Dira-t-on que c'est pour donner à la France la frontière des Alpes? Ici nous acceptons l'allégation, et nous ne craignons pas de répondre que les Alpes sont notre frontière naturelle, et que cette clé est plus que jamais nécessaire dans nos mains, quand il va se former à nos portes un véritable Royaume d'Italie, qu'on a eu raison de comparer à la Prusse pour l'étendue, la force, et l'esprit militaire.

Les Alpes sont si bien la frontière naturelle de la France, "la Savoie," dit M. Anselme Petetin, "est si visiblement une découpure de notre carte militaire et politique, qu'en 1814, lorsque nous étions écrasés, que nous n'avions plus, je ne dis pas à dicter, mais presque à implorer des conditions, on nous donnait la Savoie par le Traité de Paris."

Notre droit fut donc reconnu par l'Europe en 1814. Supprimé en 1815, on sait pourquoi et comment, il reparaît aujourd'hui avec l'assentiment de la Savoie tout entière, et l'avénement du principe des nationalités en Europe.

Dans la Savoie, comme dans le Comté de Nice, dont nous parlerons un autre jour, le mouvement national est maintenant assez prononcé pour qu'on puisse dire: Le jugement est déjà rendu; *Vox populi*. Cependant, comme nous sommes de ceux qui aiment les situations nettes et qui veulent le triomphe des principes au grand

soleil, nous ne désirerions pas que l'annexion de la Savoie à la France s'accomplît sans que le vœu populaire fût solennellement constaté. Le suffrage universel sera encore ici la meilleure solution.

Française, la Savoie retournera à la France. L'histoire, la politique, la langue, les mœurs auront raison, et nous aurons nos frontières naturelles—les Alpes, qui, selon une expression heureuse, sont un décret de Dieu.—PAULIN LIMAYRAC.

No. 18.—*Earl Cowley to Lord J. Russell.*—(*Received January* 28.)
(Extract.) *Paris, January* 27, 1860.

I SHOULD be glad to receive your Lordship's instructions as to the language which I should hold with regard to the annexation of Savoy and of the County of Nice to France.

I inclose for your Lordship's information a further article which has appeared in the "Patrie" on this subject.

I mentioned the matter this afternoon to M. Thouvenel. I said that I had no authority from your Lordship to speak to him, but that as Count Walewski had, some months ago, given me a solemn assurance that the idea of annexation, if once entertained, had been abandoned, I could not avoid asking, in the midst of all the rumours that were in circulation, whether his Excellency had any information to give me.

M. Thouvenel replied that he could assure me that the Emperor had not alluded to Savoy with him, but he proceeded to discuss the subject in a way which proves to me that he is ready to do argumentative battle in defence of it if necessary.

Lord J. Russell. COWLEY.

(*Inclosure.*)—*Extract from the "Patrie."*

LE COMTE DE NICE.—Ce n'est pas un expédient ou un arrange-

[redacted]

et traversant les phases les plus diverses sans se dénaturer, c'est l'histoire elle-même. De cette vérité, la situation actuelle de l'Italie nous offre un frappant exemple. Livrées à elles-mêmes, les populations s'efforcent de réaliser les conceptions de la diplomatie depuis deux siècles, conceptions qui n'ont été interrompues violemment qu'en 1815, lorsque l'esprit de haine et l'esprit de représailles prirent la place de l'habileté et de la prudence.

Dans une remarquable étude, publiée dans la "Revue des Deux-Mondes," du 15 Juillet dernier, M. Saint-Marc Girardin a rappelé qu'à la fin du 17me siècle, et avant les entraînements de la guerre d'Espagne, l'Angleterre et la Hollande ne se souciaient pas plus que la France de livrer l'Italie à l'Autriche. "On sait," disait-il, "qu'avant le testament de Charles II, qui donna toute la monarchie Espagnole au petit-fils de Louis XIV, des Traités de partage de cette succession toujours près de s'ouvrir, avaient été faits entre la France, l'Angleterre, et la Hollande."

Nous n'avons pas à nous occuper, aujourd'hui, de ce que contenait le premier de ces Traités de partage; mais voici ce qui était contenu dans le second, à la date du 17 Mars, 1700. L'Archiduc Charles d'Autriche, plus tard l'Empereur Charles VI, était appelé à recueillir l'héritage de la monarchie Espagnole, sauf l'Italie méridionale, qui était donnée au Dauphin. Quant au Duché du Milanais, on ne voulait le donner ni au Dauphin ni à l'Archiduc; il était attribué, soit au Duc de Lorraine, qui devait alors céder la Lorraine à la France, soit au Duc de Savoie, qui devait alors céder à la France la Savoie et le Comté de Nice.

La même attraction qui pousse à travers l'histoire le Milanais dans les bras du Piémont pousse la Savoie et le Comté de Nice dans les bras de la France. A ce point de vue, l'on peut dire que si la cession de la Lombardie au Piémont est un agrandissement, ce n'est point, à proprement parler, une conquête. L'événement était depuis longtemps prévu et désiré, et les Délégués de la Municipalité Milanaise, qui vinrent offrir les clés de la ville de Milan au Roi Victor Emmanuel dans le camp de l'Empereur Napoléon III, n'obéissaient point à la pression de la victoire, mais à des sentiments de vieille date, à des sympathies consacrées par plusieurs siècles.

De même, lorsqu'en 1792, Montesquieu fut chargé d'envahir la Savoie, il n'entra pas en vainqueur, mais en ami; et M. Anselme Petetin, que nous aimons à citer le premier dans cette question, a dit avec vérité:—"L'entrée de Montesquieu en Savoie ne fut pas une invasion, ce fut une fête."

De même encore, dans la même année 1792, quand le Général d'Anselme fut chargé par la Convention de faire la conquête de Nice, la place, quoique garnie d'une formidable artillerie, se rendit sur une simple sommation; et le Corps Municipal de Nice se porta

au quartier du Général d'Anselme, pour le supplier de venir occuper la ville, afin d'y protéger l'ordre.

C'est que le Comté de Nice était depuis longtemps Français, comme la Savoie. Il l'était si profondément, qu'il n'eut aucune peine à devenir un Département de la France, et que depuis la dernière séparation, depuis 1815, à chaque ébranlement politique, Nice a éprouvé une fausse joie en croyant qu'elle allait redevenir, à l'aide de Traités, ce qu'elle est réellement par le cœur et par toutes ses aspirations.

Ne suffit-il pas, d'ailleurs, de jeter les yeux sur la carte pour comprendre que Nice est un fragment détaché de notre territoire? Ne suffit-il pas de jeter les yeux sur la carte pour comprendre que le jour où la France aura la frontière des Alpes du côté de la Savoie, il lui faut, de par la logique, les Alpes maritimes? Des Traités faits en haine de la France ont pu en décider autrement, mais ils ont fait violence à la géographie, et la diplomatie, en 1815, se mit en opposition flagrante avec la nature. Une politique sage et clairvoyante rétablira l'état véritable des choses. On ne s'obstinera plus à séparer des territoires rattachés par tant de liens. Comme la Savoie, le Comté de Nice redeviendra Français, et cette grande nation qui s'appelle la France n'aura plus pour frontière un ruisseau qui s'appelle le Var.—PAULIN LIMAYRAC.

No. 19.—*Lord J. Russell to Earl Cowley.*

MY LORD, *Foreign Office, January* 28, 1860.

I HAVE received and laid before the Queen your Lordship's despatch of yesterday, respecting Savoy.

I have no difficulty in giving you instructions as to the language which you should hold with regard to the annexation of Savoy and



we take of this question in connection with the general interests of Europe, and the position of the Emperor of the French.

The Emperor cannot fail to have present to his mind the alarm and anxiety which prevailed in Europe during the past summer; the arming of Prussia and the German Powers: the hopes of revolution excited; the rumours of alliances, offensive and defensive, which agitated the public mind. The Emperor can well recall that period; for he stated how much of glory he was content to forego, how much of noble aspirations to disappoint, in order to give satisfaction and peace to Europe.

It is to be hoped and desired that the present tendency should be to soothe the troubled waves and restore calm to the agitated atmosphere.

But the question of the annexation of Savoy would be regarded not so much as composing past troubles as raising the elements for new storms. Natural frontiers—the Alps and the Rhine—the repetition of the history of long and bloody wars—the commencement of a new struggle between France and Europe: such are the ideas which would pass through men's minds at the announcement of such an acquisition.

Let the Emperor recall the noble words in which he gave forth at Milan a sentiment not less just than becoming the Sovereign of so great an Empire.

In addressing the Italians, His Imperial Majesty said, "Your enemies, who are mine, have endeavoured to diminish the universal sympathy for your cause which prevailed in Europe, by making it believed that I only made war from motives of personal ambition, or for the aggrandisement of the territory of France. If persons exist who do not understand the age in which they live, I am not of that number. In the enlightened state of public opinion, the moral influence that can be exercised contributes more to grandeur at the present time than barren conquests, and that moral influence I seek with pride by contributing to render free one of the fairest portions of Europe."

I choose rather to suppose that the Emperor will adhere consistently to this declaration than that he will run the risk of arousing jealousies and fears in Europe which he would find it difficult hereafter to appease. I am, &c.

Earl Cowley. J. RUSSELL.

No. 20.—Lord J. Russell to Sir J. Hudson.

SIR, *Foreign Office, January* 31, 1860.

I TRANSMIT to you herewith, for your information, a copy of a despatch from Her Majesty's Ambassador at Paris, relative to the reported intended cession of Savoy to France.

I also inclose a copy of the answer which I have returned to his Excellency's despatch.

I am, &c.

Sir J. Hudson. J. RUSSELL.

No. 21.—Lord J. Russell to Lord Bloomfield.

MY LORD, *Foreign Office, February* 1, 1860.

I TRANSMIT to your Lordship, for your information, a copy of a despatch which I have addressed to Her Majesty's Ambassador at Paris, respecting the rumour which has lately prevailed of a plan being in agitation for annexing to France Savoy and the County of Nice.

Your Lordship will understand that you are not to read, still less give a copy of, this despatch to Baron Schleinitz; but in speaking to his Excellency on the subject, you will conform your language to what I have stated to Lord Cowley.

I am, &c.

Lord Bloomfield. J. RUSSELL.

No. 22.—Sir J. Hudson to Lord J. Russell.—(Rec. February 4.)

MY LORD, *Turin, February* 1, 1860.

WITH reference to the rumours which have lately been in circulation of the intended cession by Piedmont of Savoy to France, I have the honour to inclose herewith a copy of the "Gazette de Savoie," stating that on Sunday last a deputation waited on the Marquis Orso Serra, Governor of Chambéry, with an Address containing a protest against annexation, and demanding to be informed of the intentions of the Government in the matter; to which the Governor, having received instructions by telegraph from Turin, replied that "the Government had never entertained the idea of

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sateurs de la manifestation. 24 Délégues furent chargés de se présenter devant le Gouverneur de la province, porteurs d'une Adresse rédigée au nom de la population, et de solliciter la réponse du Gouvernement.

Les Commissaires élus déployèrent une louable activité afin de rendre générale cette manifestation: et, sur leur invitation, le "Statut et la Savoie" annonça comme notre journal que la réunion aurait lieu Dimanche, à 2½ heures du soir, au Champ de Mars.

Une heure avant celle fixée pour ce rendezvous, une neige épaisse commença à tomber dans la vallée, et le Verney ne tarda pas à en être recouvert jusqu'à 3 centimètres. Une température aussi peu favorable fit croire à un grand nombre de citoyens que la démonstration n'aurait pas lieu et déjà quelques-uns parlaient de la faire renvoyer à un autre jour.

Néanmoins, de chaque quartier débouchaient de nombreux citoyens appartenant à toutes les classes de la population, et bientôt le Champ de Mars en vit près de 3,000 bravant l'intempérie de la saison et réunis autour des 20 drapeaux que les organisateurs avaient fait distribuer.

A 3 heures précises, les citoyens porteurs des drapeaux ayant élargi le cercle au milieu duquel se trouvaient déjà réunis les Commissaires organisateurs et les Délégués, M. l'Avocat Jean-Jacques Rey, Membre du Comité, a demandé la parole, et d'une voix haute et ferme a fait connaître à la foule qui se pressait autour des drapeaux l'Adresse que les Commissaires et Délégués avaient rédigée et allaient présenter à M. le Gouverneur de la Province au nom de la population de Chambéry.

Cette lecture en plein Champ de Mars, que de gros et épais flocons de neige continuaient à couvrir, au centre de 20 drapeaux tricolores à la Croix de Savoie, et au milieu d'une population libre et forte, qui applaudissait énergiquement à toutes les expressions rappellant le Roi et la patrie, avait quelque chose de solennel qui impressionnait vivement les assistants.

Voici le texte de l'Adresse:

"A M. le Gouverneur de la Province de Chambéry.

"L'imposante manifestation qui a lieu en ce moment réunit des hommes inspirés du plus pur des sentiments, le culte de la patrie. Ils viennent faire devant vous une déclaration solennelle.

"Nous déclarons notre volonté de continuer à faire partie intégrante des Etats de la Maison de Savoie, à laquelle notre terre a servi de berceau, et dont nos pères ont suivi pendant 8 siècles les glorieuses destinées.

"Nous protestons de notre respect, de notre amour et de notre fidélité inaltérable envers le loyal et chevaleresque Victor Emmanuel II.

" Nous sommes résolus à rester libres sous le Statut Constitutionnel que Charles Albert le Magnanime a donné à la nation.

" Nous sommes convaincus qu'entre notre auguste Monarque et nous, tous les liens ne peuvent être que noblement réciproques, et nous serons heureux d'en obtenir l'assurance."

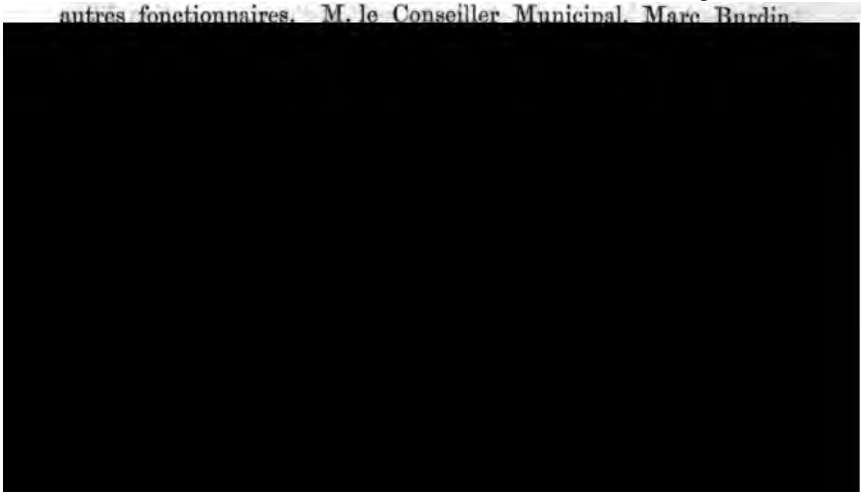
Les derniers mots de cette Adresse étaient à peine prononcés qu'un cri spontané et unanime de " Vive le Roi ! Vive la Maison de Savoie !" partit de toutes les poitrines.

Aussitôt aprés, un signal fut donné par les Commissaires pour mettre en marche la colonne. La foule s'entr'ouvrit pour donner passage aux porteurs des bannières et aux Commissaires Délegués, et les citoyens, se rangeant en bon ordre, quatre par quatre ou six par six, suivant les divers groupes qu'ils formaient, composèrent le plus imposant cortége que notre population ait vu défiler dans ses rues.

Le calme et la dignité avec lesquelles ce cortége s'avançait vers le Château, ont frappé d'admiration les nombreuses personnes accourues sur son passage. Plusieurs ont voulu compter approximativement le nombre des citoyens qui ont pris part à cette démonstration ; quelques-uns s'accordent à dire qu'il dépassait le chiffre de 2,500 hommes, et d'autres celui de 3,000.

Arrivés dans la Cour du Château Royal, littéralement remplie de monde depuis l'escalier intérieur jusqu'aux gradins de la chapelle, les Délegués se rendirent auprès de M. le Marquis Orso Serra, Gouverneur de la Province, qui avait été prévenu de la manifestation.

M. le Gouverneur a reçu la Députation dans le grand salon de l'appartement Royal, ayant à ses côtés M. le Colonel de Garde Nationale, et entouré de M. le Vice-Gouverneur et de plusieurs autres fonctionnaires. M. le Conseiller Municipal, Marc Burdin,



instructions et une réponse catégorique. Je suis heureux de pouvoir vous la faire connaître maintenant.

"La politique du Gouvernement de Sa Majesté est connue; elle n'a pas variée; le Gouvernement n'a jamais eu la pensée de céder la Savoie à la France. Interrogé déjà précédemment par le parti qui a osé élever dans le pays le drapeau de la séparation, le Gouvernement n'avait pas même jugé devoir lui répondre."

Cette réponse fut accueillie par les applaudissements des Députés, qui se retirèrent en remerciant M. le Gouverneur de son accueil bienveillant et de son empressement à satisfaire à leurs demandes.

M. Burdin vint aussitôt donner communication de cette réponse à la population qui, dans la vaste cour du Château, l'attendait depuis un quart d'heure avec une patience admirable, sous les flocons de neige qui continuaient à tomber en abondance.

A peine M. Burdin eût-il fini de parler que les cris unanimes de "Vive le Roi!" "Vive notre Gouverneur!" "Vive la Savoie!" furent poussés par toutes les bouches avec une telle énergie qu'ils furent entendus des extrémités mêmes de la ville.

Puis le cortège, ses drapeaux toujours en tête, descendit du Château, et, traversant de nouveau la ville dans un ordre parfait, alla rompre ses rangs sur la Place du Théâtre.

No. 23.—*Captain Harris to Lord J. Russell.*—(*Rec. February* 6.)
(Extract.) *Berne, January* 31, 1860.

M. James Fazy, the deputy for Geneva, and who exercises almost dictatorial authority there, called on me a few days ago, and, speaking at length on the subject of the reported cession of Savoy to France, repeated the arguments which I have already stated to your Lordship in favour of Switzerland possessing a strong military frontier. He said that the inhabitants of the Chablais and Faucigny were entirely in favour of union with Switzerland. He also stated that he had had a long conversation with M. Cavour when the latter was at Geneva two months ago, and that he had expressed himself strongly against the cession of Savoy.

I do not attach much value to the recital of these and similar conversations.

I believe that there is an influential party in Savoy favourable to annexation with France, and that they are busily at work with a view to extend their opinions, and that when matters are ripe there, if the King of Sardinia should have obtained a large extension of territory in Italy, it would be proposed to cede a portion of Savoy in lieu of the pecuniary liabilities which he has incurred towards France under the provisions of the Treaties of Zurich.

In such a case it would be of the highest importance that Switzerland should possess such a military frontier as that indicated in the map transmitted with my despatch dated July 1, 1859, which would effectually cover the approaches by the Col de Balme and other passes into the Valais and Simplon road; whilst on her side Piedmont might render inaccessible those of Mont Cenis and Mont Genevre.

I believe such an arrangement would be more practically efficient against the invasion of either Switzerland or Northern Italy than the present one, which contemplates the occupation by Swiss troops of the neutral territory, the greater part of which is untenable as a defensive position.

In my despatch dated the 28th November, 1859, I made known to your Lordship the difficulties and dissidencies which had arisen between Sardinia and Switzerland in negotiating the arrangements respecting the time and mode of such occupation.

There is too much reason to fear that difficulties of this nature might again arise at a moment when a cordial understanding, and rapid and combined action, would be essential to the safety of both countries.

Lord J. Russell. E. A. J. HARRIS.

No. 24.—Lord Bloomfield to Lord J. Russell.—(Rec. February 6.)

MY LORD, *Berlin, February 4, 1860.*

WITH reference to your Lordship's despatch of the 1st instant, inclosing a copy of your Lordship's despatch of the 28th ultimo to Earl Cowley, respecting the rumours of an intended annexation of Savoy to France, I have the honour to inform your Lordship that Baron Schleinitz alluded to this subject in the course of conversation



No. 25.—Earl Cowley to Lord J. Russell.—(*Received February* 6.)

MY LORD, *Paris, February* 5, 1860.

I HAVE the honour to inclose herewith an article from the "Constitutionnel" of this morning, commenting on the question of the day, namely, the annexation of Savoy to France.

I have, &c.

In the absence of Earl Cowley,

Lord J. Russell. W. G. GREY.

(*Inclosure.*)—*Extract from the "Constitutionnel" of February* 5, 1860.

Paris, le 4 Février, 1860.

IL se fait dans la presse, depuis quelques jours, un certain bruit à propos de l'annexion de la Savoie et du Comté de Nice à la France.

C'est, sans doute, pour les organes de la publicité, un droit incontestable que d'anticiper sur les événements et d'agiter à l'avance les problèmes que la diplomatie seule a la mission et le pouvoir de résoudre.

Mais on se tromperait beaucoup, si l'on voyait dans cette initiative tout individuelle des journaux, autre chose qu'un pressentiment de l'opinion publique et l'indication d'une certaine logique des faits, conduisant à des déductions qui semblent en être la conséquence naturelle.

Quant à présent, la combinaison qui annexerait à la France la Savoie et le Comté de Nice ne saurait avoir d'autre caractère.

Cette question s'est posée en quelque sorte d'elle-même, sans provocations, en dehors de tout parti pris et comme si elle était dans la nature des choses.

Il était dès lors inévitable que la presse s'en emparât, et que, frappée tout à la fois de l'entraînement des populations Savoisiennes vers la France et de la justice d'une mesure qui, au moment où le Piémont semble devoir s'agrandir singulièrement de l'autre côté des Alpes, rendrait à notre pays sa frontière géographique, elle se fît l'organe d'un vœu qui répond si bien au sentiment national.

Mais cette tendance unanime de la presse Française est née et reste tout à fait en dehors de l'impulsion officielle.

Ce que veut la Savoie, ce que désire la France, ne semble pas douteux; ce que voudront et pourront faire les Gouvernements reste, à cette heure encore, couvert des voiles de la diplomatie.

Ceux qui affirment la chose faite, ne sont pas plus instruits que ceux qui affirment qu'elle ne se fera pas. Les ombrages que prennent les uns n'ont pas plus de fondement que les espérances conçues par les autres.

Ce qui ne saurait laisser de doute, c'est la sagesse en même temps que le patriotisme de la politique de l'Empereur; défenseur scrupuleux des conditions essentielles qui assurent et garantissent l'équilibre Européen, il ne voudra certainement les laisser altérer, pas plus à son détriment qu'au préjudice des autres.

C'est avec cette certitude que la presse peut continuer à agiter la question; mais, dans l'intérêt même de la solution des graves difficultés diplomatiques qui préoccupent, en ce moment, l'attention du monde, il importe de répéter, encore une fois, que toutes ces discussions n'ont d'autre valeur que celle des raisons et des faits qu'elles mettent en lumière, et qu'aucune inspiration officielle ne s'y trouve mêlée.—A GRANDGUILLOT.

No. 26.—Lord J. Russell to Sir J. Hudson.

SIR, *Foreign Office, February* 6, 1860.

IN speaking to Count Cavour respecting the rumoured annexation of Savoy, you will not disguise from Count Cavour that, in the opinion of Her Majesty's Government, it would be a blot in the escutcheon of the House of Savoy if the King of Sardinia were to yield to France the cradle of his ancient and illustrious House.

You will likewise point out that if the military position of Sardinia will be weak, in face of the fortresses possessed by Austria on the Mincio and the Adige, that weakness will not be cured by placing on another frontier the great power of France in possession of the passes of the Alps, commanding an easy access to Italy in any case of hostile discussion between the French and Sardinian Governments.

I am, &c.

Sir J. Hudson. J. RUSSELL.

No. 27.—Sir J. Hudson to Lord J. Russell.—(Rec. February 8.)

Turin, February 3, 1860.

[redacted]

well that they had a constitutional remedy by petition to the Crown through Parliament; that, if any such petition were presented, it would be dealt with Parliamentarily and openly, and would receive such remedy as Parliament might approve and the Crown sanction.

At this moment, said the Count, Savoy has one battalion of Rifles to protect it; and I can assure you, he added, that the Sardinian Government has no intention of applying military coercion to any portion of the King's subjects, in order to stifle or create a public demonstration: the question of Savoy is left to the good sense and the good feeling of the people of Savoy.

I have, &c.

Lord J. Russell. JAMES HUDSON.

No. 28.—Earl Cowley to Lord J. Russell.—(Received February 8.)

(Extract.) *Paris, February 5, 1860.*

THE interpellations in both Houses of Parliament respecting the truth of the reported annexation of Savoy to France, together with the receipt of your Lordship's despatch of the 28th ultimo, stating the views of Her Majesty's Government on this question, determined me to recur to it again with M. Thouvenel. Previously to so doing, I had an opportunity of ascertaining from Count Walewski that he recognized the accuracy of the report which I had sent to your Lordship of his declaration to me in July last, but he reminded me that he had made that declaration in view of the strict accomplishment of the Treaty of Zurich, and that he had more than once afterwards maintained that if Sardinia was to be aggrandized, by the annexation of the Duchies, it must be at the cost of Savoy and the county of Nice, which must pass to France. This is perfectly true, and on more than one occasion I alluded to these observations in my private correspondence with your Lordship. I did not think it necessary to notice them officially, because it was understood that all questions arising out of the state of Italy were to be referred to a Congress, and I considered it unadvisable, in face of the previous declarations made to me, to engage Her Majesty's Government in a diplomatic correspondence upon a hypothetical question, which, if it ever assumed a more tangible shape, must necessarily come under the examination of all the Powers represented in the Congress. It is not, however to be inferred that I allowed Count Walewski to suppose that the realization of this scheme would be seen with indifference by Her Majesty's Government.

In speaking to M. Thouvenel, I said that I did not desire to enter into any controversy with him, nor did I intend that my interpellations should bear any other than a friendly character; but I really wished to ascertain how matters stood—whether there was

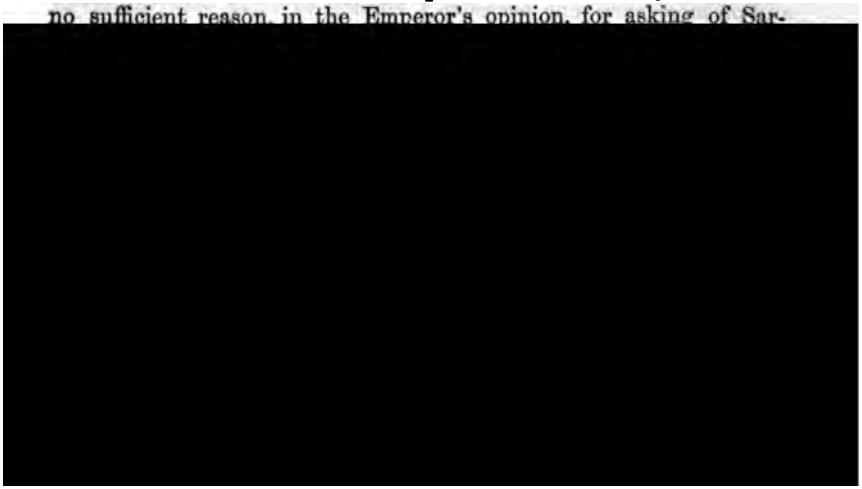
any understanding between the French and Sardinian Governments, and whether he maintained the declarations of Count Walewski.

In order that his Excellency might know exactly what I asked, I read to him my despatches of the 4th and 8th of July last, to your Lordship.

M. Thouvenel replied, that not having had as yet an opportunity of speaking to the Emperor on this matter, he could only state his personal opinions, which he proceeded to do at great length; but as he promised to take the Emperor's orders without loss of time, after which he undertook to give me an official answer, and as he yesterday realized this promise, I need not trouble your Lordship with any details of this first conversation. I will merely state that I took care that M. Thouvenel should be under no illusion as to the opinions of Her Majesty's Government.

Yesterday, then, the official answer which I received from M. Thouvenel was to the following effect. He read it from a written paper:

It was true that among the possible arrangements discussed between the French and Sardinian Governments, when they found themselves likely to be engaged side by side in war with Austria, was the cession to France, under certain contingencies, of Savoy and the County of Nice. These contingencies, however, did not occur when peace was made. The Emperor had thought that if the chances of war had given such a large accession of territory to Sardinia as would have altered the relative proportions of the military strength of the two countries, he might with justice have demanded such territorial concessions of Sardinia as would have preserved those relative proportions. But so long as the sole addition made to Sardinia was the province of Lombardy, there was no sufficient reason, in the Emperor's opinion, for asking of Sar-



solution would partake of the nature of the arrangements made at Zurich, will not think it necessary to look to the more immediate safety of the French frontier. But the French Government could not consent to the formation of a kingdom of above 10,000,000 of souls in the south of Europe without taking precautions for the future security of France. This would be done not in a spirit of conquest or aggrandisement, but simply as a measure of necessary precaution.

But while the French Government ask for guarantees for the safety of France, they have no intention of violating or infringing upon those which Europe has thought necessary to take for her own safety. The annexation, therefore, of Savoy to France, would not break the engagements entered into for the neutrality of the districts of Chablais and Faucigny; indeed, in the opinion of the French Government, it would be well that those districts should be united permanently to Switzerland.

Such, my Lord, is the general substance of the statement made to me by M. Thouvenel of the views of France with respect to the possible annexation of Savoy and the county of Nice. His Excellency added, that he wished it to be received in the same friendly manner that I had employed in asking for it. It is his Excellency's intention to write in a similar sense to M. de Persigny.

I did not conceal from M. Thouvenel the regret with which I had heard his statement, which, I feared, would not be calculated to calm the apprehensions of Europe. I observed, that he had argued the whole matter from a French point of view, and therefore I felt bound to call to his recollection the opinion of Her Majesty's Government that it was a question which, if ever entertained, must be considered by all the great Powers of Europe, and to ask him whether he partook that opinion.

M. Thouvenel said, that he could not reply to a question of this importance without taking the Emperor's orders, but that he could have no hesitation in stating to me the advice which he should offer His Majesty, namely, that if Her Majesty's Government were ready to admit that the annexation of the States of Central Italy to Sardinia could not be effected without the consent of all the great Powers of Europe, the Emperor should subscribe to the same rule when applied to Savoy. The principle was the same in both cases, and could not be applied to the one and not to the other.

I replied that, to make the cases parallel, Sardinia must be a State as rich and powerful as France; that the annexation of fresh territory to France might alter the balance of power in Europe, which could hardly be said of Sardinia, were that kingdom to be increased to a State of 10,000,000 or 12,000,000 souls.

There was one other question, I said, which I wished to put,

namely, was it, in certain eventualities, intended to annex Savoy to France by force, and without any reference either to the King of Sardinia or to the people of Savoy? M. Thouvenel disclaimed promptly, and without hesitation, any intention of the kind, and he added a memorandum to the paper which he had been reading to me, to the effect that it was well understood that it had never entered the Emperor's thoughts to constrain either the will of the King of Sardinia or that of the populations.

Lord J. Russell. COWLEY.

No. 29.—Captain Harris to Lord J. Russell.—(Rec. February 9.)

MY LORD, *Berne, February 6, 1860.*

A MEETING, attended by many of the influential inhabitants of Geneva, took place in that city on the 3rd instant, to take into consideration an Address to the Federal Government on the subject of the rumoured cession of Savoy to France.

I have the honour to inclose a report of their proceedings, as given in the "Revue de Genève."

Your Lordship will observe that M. James Fazy, Vice-President of the Cantonal Council of State, and leader of the ruling party at Geneva, asserts as a positive fact that a Treaty for the cession of Savoy was signed on the 27th of January.

I have reason to believe that in the provinces of Chablais and Faucigny there is a strong feeling in favour of union with Switzerland, on account of the incessant and intimate commercial relations that exist between them and the Canton of Geneva, as well as for other reasons. I have, &c.

Lord J. Russell. E. A. J. HARRIS.

(*Inclosure* 1.)—*Extract from the "Revue de Genève" of February 4,* 1860.

[redacted]

tion ou la possession des provinces Savoisiennes qui appartiennent au bassin du Léman. Il estime que le moment est venu pour le peuple de Genève de savoir où en est cette importante affaire et de se mettre en mesure de tendre une main fraternelle à des populations amies qui pourraient demander à jouir des avantages que nous possédons dans le domaine politique. Enfin, il a demandé qu'en face d'une question de cette importance, toutes les opinions se rallient et fassent taire les animosités de partis.

M. James Fazy, acclamé par les applaudissements de l'assemblée, a déclaré qu'il s'était rendu à l'appel qui avait été adressé aux citoyens, dans la conviction que c'est aux magistrats élus par le peuple à se mettre les premiers à la brêche lorsque des dangers menacent le pays. Tout en confirmant la nouvelle de la signature du Traité qui cède la Savoie à la France, M. Fazy a fait observer qu'il est possible que, dans la pensée des auteurs de ce Traité, il y ait quelque réserve en faveur du maintien de la neutralité Suisse dans l'étendue que lui donnent les déclarations des Congrès de Vienne et de Paris de 1814 et 1815. Nous devons espérer la manifestation des sentiments de sympathie que nos voisins de France professent pour nous; mais nous devons aussi encourager de toutes nos forces nos amis de la Savoie dans la manifestation de leur volonté, parce que la Suisse ne demande aucune conquête, ne cherche à absorber aucune nationalité, mais prête son appui aux peuples qui désirent participer aux avantages d'une Confédération forte et unie, tout en conservant leur individualité. M. Fazy émet le vœu que l'Assemblée se borne à engager les autorités Cantonales et les autorités Fédérales à avoir l'œil ouvert et à faire tout ce qui peut dépendre d'elles pour que nos frontières naturelles nous soient conservées.

Après M. Fazy, M. Carteret a pris la parole et a décrit avec une grande force de persuasion le danger qui résulterait pour les Cantons de la Suisse Occidentale de se voir entourés par l'Empire Français s'étendant jusque sur les bords du Léman. Il croit à la générosité, aux sympathies de la France; mais il souhaite qu'on n'en vienne pas à cette épreuve, et que, dans des réunions postérieures, on démontre que la nation n'est pas endormie, qu'elle n'est pas indifférente à ce qui se passe autour d'elle, et qu'elle est disposée à accueillir avec bonheur de nouveaux confédérés.

M. Roget s'est ensuite levé pour appuyer, au nom des citoyens n'appartenant pas au côté Radical, les discours des orateurs précédents, et pour déclarer que, sur ce point, tous les partis à Genève marcheront d'accord.

M. Golay s'est exprimé dans un sens analogue à celui de MM. Fazy et Carteret; et M. Maréchal, citoyen du Faucigny, a remercié l'assemblée, au nom de ses concitoyens, pour l'empresse-

ment avec lequel les Genevois ont oublié les querelles de partis dès qu'il s'est agi d'accueillir de nouveaux frères dans l'alliance Suisse. Toutes les sympathies des habitants du territoire Sarde neutralisé sont pour la Suisse, et ils suivront avec plaisir les conseils qui leur seront donnés par leurs amis de Genève.

Tel est, fort en abrégé, le sens des discours prononcés à l'assemblée d'aujourd'hui. Nous espérons que cette réunion sera suivie d'une autre plus nombreuse, et que nous y rencontrerons le même esprit, le même enthousiasme que dans celle-ci.

La proposition de M. J. Fazy, pour une adresse aux autorités Fédérales, a été votée par acclamations à l'unanimité des personnes présentes.

(*Inclosure* 2.)—*Extract from the "Revue de Genève" of February* 5, 1860.

Genève, le 4 *Février*, 1860.

Nous complétons aujourd'hui de notre mieux notre compte-rendu de l'assemblée publique de hier, en reproduisant, d'après les notes que nous y avons prises, le discours fort remarquable prononcé par M. James Fazy:

"Messieurs, quand j'ai vu l'affiche qui invitait les citoyens à se rassembler pour s'occuper des intérêts de la patrie en danger, j'ai cru devoir me rendre à cette convocation, et cela d'abord comme citoyen, puis en pensant que si le pays est menacé d'un danger, c'est aux magistrats élus par le suffrage du peuple à se mettre les premiers sur la brèche. Je viens d'entendre qu'il s'agit des Traités qui pourraient avoir été conclus entre la France d'une part, et le Gouvernement de Sardaigne de l'autre, pour la cession de la Savoie. Malheureusement, il n'est que trop vrai que cette Convention a été signée le 27 Janvier par le Gouvernement Sarde: mais de ce fait

[redacted]

considération, et, pour ainsi dire, sous-entendu comme allant de soi. Mais supposons le pis, supposons qu'il n'ait été fait ni tacitement ni par écrit aucune réserve en notre faveur, et que l'intention des Parties Contractantes du Traité récemment signé ait été de donner à la France toute la Savoie y compris les provinces faisant partie de la neutralité Suisse, notre position serait alors extrêmement critique. Environnés de tous côtés par un puissant voisin, nous serions, comme on dit vulgairement, dans une souricière, et nous courrions un grand danger pour notre indépendance.

"Tous nos efforts doivent donc tendre à faire comprendre cette situation à une Puissance amie, avec laquelle nous sympathisons sur beaucoup de points, en particulier sur la guerre de l'indépendance Italienne et sur les mesures tendant à la liberté économique, récemment inaugurées en France. Nous qui sympathisons avec ce voisin sous tant de rapports, nous devons examiner, sans y mettre aucun esprit de défiance prématurée, si nous ne pourrions pas invoquer en notre faveur cette sympathie qui vient des besoins mutuels et des aspirations communes des deux peuples. Nous devons nous abstenir de toute parole hostile, en songeant que nous n'en sommes pas au point où nous pourrions avoir tout à craindre.

"Les Provinces Sardes qui nous entourent doivent être appelées à se prononcer ouvertement, par le suffrage universel, sur la question de leur annexion à la France ou à la Suisse. Qu'elles apprennent, par notre exemple, ce que c'est que le suffrage universel, qu'elles exercent ce droit suprême avec la force de la conviction et sans se laisser détourner ou intimider par des influences du dehors! Nous pouvons, quant à nous, retrouver la position d'indépendance, de sécurité qui paraît être menacée en ce moment. Pour cela, encourageons nos voisins à dire leur opinion, à la proclamer sans arrière-pensée, par tous les moyens légaux. Cette opinion, je le crois, n'est pas douteuse; elle est conforme aux intérêts de ces provinces qui font, dès longtemps, partie de la neutralité Suisse, et conforme également aux conditions de sécurité que réclame notre patrie.

"Messieurs! Au milieu des événements actuels, nous pouvons mettre en avant une pensée consolante pour cette partie de territoire dont on paraît aujourd'hui faire une sorte de marché. La Suisse ne fait plus de conquêtes; les temps sont heureusement passés à tout jamais, où elle possédait des pays tributaires. Si les provinces dont il s'agit deviennent Suisses, elles ne perdront pas leur autonomie; elles resteront elles-mêmes, avec leur nom, leurs traditions, leur indépendance; la Confédération est une agglomération d'Etats libres et souverains qui se tendent la main quand le danger menace l'un d'eux, mais dont aucun n'est absorbé par

l'ensemble, et qui mettent en pratique cette belle devise : ' Un pour tous, tous pour un ! '

" Cela est bien différent de la condition dans laquelle se trouveraient ces provinces si elles venaient à être réunies à un grand empire où elles seraient fondues et perdraient leur histoire individuelle, leurs magistrats nationaux et jusqu'à leurs noms. Elles feraient partie d'un Etat vaste, puissant, grand par ses idées libérales ; mais elles seraient rayées du nombre des nations. Il n'y a évidemment pas égalité dans le choix qui leur est offert d'appartenir à la Confédération Suisse ou à la France. En choisissant la Suisse, elles forment la Savoie confédérée ; demain, si elles deviennent Françaises, elles seront un autre peuple et perdront la physionomie qui leur est propre. C'est, pour nos voisins de la Savoie, une chose à considérer avec beaucoup d'attention.

" Quant à nous, si l'on vient nous dire : ' Qu'avez-vous fait pour qu'on vous donne une augmentation de territoire ? ' Nous répondrons que nous ne demandons rien, que nous ne cherchons pas à conquérir ni à dominer, que nous sommes une agglomération d'individualités dont chacune reste à elle-même et se trouve jointe à l'ensemble pour profiter des avantages d'une paix perpétuelle ; mais que nous voulons défendre notre sûreté, notre intégrité, et que toutes les Puissances ont reconnu que la neutralité des Provinces Sardes qui nous avoisinent est nécessaire à notre indépendance. Pour que la paix devienne une réalité, il faut que nous soyons militairement prêts à la défendre.

" Je viens, Messieurs, de vous exposer la question telle qu'elle se présente en fait et en droit. Je vous demande maintenant que de cette assemblée il ne sorte qu'une résolution unanime, celle de demander aux autorités du Canton et aux autorités Suisses d'avoir l'œil ouvert et de faire leur possible pour que nos frontières natu-

(*Inclosure.*)—*Extract from the "Journal de Genève" of February 7, 1860.*

Genève, le 7 Février, 1860.

L'INITIATIVE prise par les Communes de Boëge et de Saxel a eu les résultats auxquels on pouvait s'attendre. De nombreuses déclarations se signent avec empressement dans un grand nombre de communes des provinces qui nous avoisinent. Nous recevons aujourd'hui la déclaration suivante de Contamines-sur-Arve:

"*Contamines-sur-Arve* (*Faucigny.*)

"Les Soussignés, habitant la Commune de Contamines-sur-Arve, Province du Faucigny, inquiets des bruits qui se répandent, et d'après lesquels la Savoie cesserait de faire partie des Etats de Sa Majesté Sarde, désirent consigner ici l'expression de leur dévouement au Roi, et le vœu qu'ils forment de ne voir aucun changement apporté à leur union avec la Monarchie Sarde.

"Mais, d'autre part, et dans le cas où des raisons politiques dont ils ne veulent point se faire juges, rendraient une séparation inévitable, ils sont convaincus que leur Souverain ne disposera pas de sujets fidèles, sans leur avoir permis de manifester leurs vœux, dans une circonstance aussi importante pour leur avenir.

"En conséquence, et malgré les sympathies que peut éveiller un grand et glorieux Empire, ils témoignent expressément leur désir d'être réunis à la Confédération Suisse, de laquelle les rapprochent dès longtemps la communauté des intérêts et des sentiments, ainsi que les relations de bonne amitié dont ils ont reçu tant de preuves.

"JEAN CORNUT, *Instituteur.*"

[And 133 others.]

No. 81.—*Earl Cowley to Lord J. Russell.*—(*Received February* 11.)

MY LORD, *Paris, February* 10, 1860.

I HAD an opportunity of seeing the Emperor yesterday, and I had the honour of having some conversation with His Majesty on the subject of the annexation of Savoy to France.

His Majesty did not deny that, under certain eventualities, and on the grounds stated in my despatch of the 5th instant, he might think it right to claim a proper frontier for France; that he believed that the wish of the Savoyards was to be united to France; and that he could not understand why, in the case of the Duchies, the wishes of the populations were to be attended to, and that the same principle should not prevail with respect to Savoy.

His Majesty, however, disclaimed all intention of annexing Savoy against the will of the Savoyards themselves, and without having consulted the Great Powers.

I asked His Majesty whether he would allow me to repeat this

assurance to your Lordship, and the permission was most graciously and cordially given. I have, &c.

Lord J. Russell. COWLEY.

No. 32.—*Lord J. Russell to Earl Cowley.*

(Extract.) *Foreign Office, February* 13, 1860.

I HAVE laid before the Queen your Excellency's despatch of the 5th instant, in respect to Savoy.

M. Thouvenel states, in substance, that the French Government have never concealed their opinions that if the territories of the King of Sardinia greatly increased, the addition of Savoy and Nice to France would be required for the security of the French Empire; that the Treaty of Zurich did not contemplate such an aggrandizement of Sardinia; and therefore the project of annexing Savoy was no longer entertained. But that, if the votes of Central Italy should enlarge the dominions of the King of Sardinia, and place him at the head of 11,000,000 of Italians, the security of France would require the annexation of Savoy and Nice to France.

I have to state, in reply, that although the project of the annexation of Savoy to France has been sometimes mentioned to your Excellency, yet it was in contradiction to the language of the proclamations of the Emperor of the French before and during the war in Italy, and that it is only very lately this annexation has appeared in the light of a probable arrangement.

It is only of late, therefore, that it has been thought necessary by Her Majesty's Government to state their serious objections to the project of transferring Savoy and Nice to France.

Her Majesty's Government cannot conceive that the security of France, a country so rich, so populous, and so military, possessing 36,000,000 of inhabitants, without counting her colonies, can be



the Great Powers of Europe on this project if seriously entertained and that it never entered his thoughts to constrain either the will of the King of Sardinia, or that of the people of Savoy and Nice.

Further correspondence, therefore, may be reserved for future occasion. In the meantime, your Excellency will read this despatch to M. de Thouvenel, and also that of the 28th of January, on the same subject.

If his Excellency expresses a wish to that effect, you will give him copies of both despatches.

Earl Cowley. J. RUSSELL.

No. 33.—Captain Harris to Lord J. Russell.—(Rec. February 14.)

My Lord, *Berne, February* 11, 1860.

I have the honour to inclose a copy of the "Journal de Genève," containing the declarations and signatures of the municipality and chief inhabitants of Nangy and Archamp, in the Province of Faucigny, in the same sense as those transmitted in my despatch of the 8th instant.

I have, &c.

Lord J. Russell. E. A. J. HARRIS.

(Inclosure.)—Extract from the "Journal de Genève" of February 10, 1860.

Genève, le 10 *Février*, 1860.

On nous adresse la lettre suivante, avec prière de l'insérer:

M. le Redacteur,

Le numéro du 8 Février de la "Gazette de Savoie" renferme une lettre, datée de St. Julien, relative aux manifestations qui se font en Savoie à propos de la question qui agite si profondément notre pays.

Cette lettre attribue le mouvement Savoisien à des intrigues dirigées par des Suisses. La même imputation se retrouve dans un long article publié par le "Courrier des Alpes" du 7 Février.

Voilà pourquoi nous nous adressons à vous, car nous considérons comme un devoir de revendiquer hautement et publiquement la responsabilité que la force des circonstances nous a contraints de prendre.

Certains journaux représentent la Savoie tout entière comme désireuse de se détacher de la Monarchie Sarde pour être annexée à la France.

Deux Communes du Chablais et du Faucigny ont protesté contre une telle opinion, que nous croyons en effet contraire aux vœux de l'immense majorité du Nord de la Savoie.

Convaincus, de notre côté, que l'idée d'une séparation et d'une annexion à la France est tout à fait opposée aux intentions de tous

les citoyens Savoisiens établis dans le Canton de Genève, au nombre de plus de 12,000, nous nous sommes décidés, ensuite du mandat que nous en avons reçu d'une réunion de nos concitoyens à proclamer:

1. Notre désir de rester attachés à la Monarchie Sarde;

2. Si nous devons en être séparés, d'être réunis à la Confédération Suisse.

Personne ne contestera à des citoyens qui ont en Savoie tous leurs intérêts et qui y exercent leurs droits politiques, la faculté d'exprimer leur opinion sur une question qui les touche de si près.

En conséquence, un Comité a été formé, composé de 9 membres, tous citoyens Savoisiens. Le Comité a consigné ses vœux dans la déclaration ci-jointe, qu'il invite tous ses compatriotes à signer:

"*Déclaration.*

"Les Soussignés, habitants, &c., inquiets des bruits qui se répandent, et d'après lesquels la Savoie cesserait de faire partie des Etats de Sa Majesté Sarde, désirent consigner ici l'expression de leur dévouement au Roi, et le vœu qu'ils forment de ne voir aucun changement apporté à leur union avec la Monarchie Sarde.

"Mais, d'autre part, et dans le cas où des raisons politiques dont ils ne veulent point se faire juges, rendraient une séparation inévitable, ils sont convaincus que leur Souverain ne disposera pas de sujets fidèles, sans leur avoir permis de manifester leurs vœux, dans une circonstance aussi importante pour leur avenir.

"En conséquence, et malgré les sympathies que peut eveiller un grand et glorieux empire, ils témoignent expressément leur désir d'être réunis à la Confédération Suisse, de laquelle les rapprochent dès longtemps la communauté des intérêts et des sentiments, ainsi



menaces qui ne peuvent effrayer personne sous le régime libéral et constitutionnel du Statut de 1848.

Le Comité d'Initiative,
L. MARECHAL, *Président.*
J. DECROUX.
F. GADEN.
J. MERMIN.
J. F. MUGNIER.
CLAUDE SIMOND.
J. M. GENAMY.
CLAUDE LUCAS.
O. BALLIARD.

La déclaration dont nous avons donné le texte, dans notre numéro de Mardi, avec les signatures de Contamine-sur-Arve, nous est transmise aujourd'hui, signée par les habitants de la Commune de Nangy, Province du Faucigny.

[Signed by 77 individuals.]

Une déclaration analogue nous parvient également de la Commune d'Archamp, Province du Faucigny.

[Signed by 122 individuals.]

Nous, soussignés, déclarons que toutes les signatures ci-dessus ont été apposées avec empressement et que toutes les personnes de la commune ont signé.

Fait à Archamp, le 8 Février, 1860.

PAUL TAPPONNIER, *Conseiller Municipal.*
ANDRE PREMET, „
DUBOSSON, „

No. 34.—Sir J. Hudson to Lord J. Russell.—(Rec. February 16.)

MY LORD, *Turin, February 10, 1860.*

M. TOURTE, the Swiss Envoy, called upon me yesterday to explain to me the object of his mission to this Court.

His Government has charged him to ascertain and report whether any and what engagements exist between this country and France with regard to the cession of Savoy to the latter.

M. Tourte said that he had a conversation with M. de Cavour the day before yesterday, when the Count told him that no engagement subsists between Sardinia and France for the cession of Savoy to France, and that Sardinia is not disposed to sell, cede, or exchange Savoy to France.

At the same time, M. Tourte did not fail to remark that a certain pressure is exercised by France upon Sardinia with regard to that

cession; and this idea is confirmed by other facts which have come to his knowledge.

In this idea I am very much disposed to agree with M. Tourte, for persons who are likely to be well informed do not hesitate to speak of this French pressure as a matter which embarrasses this Government.

Such being the case, I conceived it my duty to bring under Count Cavour's consideration, without loss of time, your Lordship's despatch of the 6th instant, received yesterday by messenger Vyner, and I therefore called upon his Excellency this morning, and placed that despatch in his hands.

The Count said that he could only repeat to me what he had already stated, that Sardinia was under no engagement to cede, sell, or exchange Savoy, or any other part of her dominions. He was not aware that Savoy had anything to complain of: there was no political or military pressure applied to her; on the contrary, she had demanded troops to assist in the maintenance of order at the approaching elections, in order to relieve the National Guard, which had been doing continued military and police duty for the last ten months. The question, then, is a question for Savoy, and not for the rest of the kingdom. His Excellency did not speak of French pressure, neither did he appear to fear it.

But I have good ground for believing that Switzerland also is anxious to annex to herself a portion of Savoy. Consequently, it ought to be clearly understood, that when France is blamed for seeking this cession, Switzerland also has some share in it, though to a less extent; for if France had not stirred, Switzerland would not.

This question, therefore, becoming more complicated by this double attack, renders the position of Sardinia more defensible.



In point of fact, the Savoyards do not seem, if we are to judge by facts, to know their own minds.

They have now a fair opportunity of declaring their opinions, and by those opinions, openly declared and openly discussed, the Sardinian Government will in the main be guided.

It appears to me that will be a favourable moment for the European Powers to repeat such observations and remonstrances as may be deemed proper.

But as far as this Government is concerned, I think your Lordship may rely upon it that it will exercise no undue influence on the people of Savoy with regard to ceding the whole of that province, or part, to France, and part to Switzerland.

I have, &c.

Lord J. Russell. JAMES HUDSON.

No. 35.—*Earl Cowley to Lord J. Russell.*—(*Received February* 16.)

(Extract.) *Paris, February* 15, 1860.

I saw M. Thouvenel on the morrow of the day on which I had the honour of conversing with the Emperor, and his Excellency informed me that His Majesty had recapitulated the tenor of that conversation to him, which naturally led him to repeat the Emperor's words to me.

Lord J. Russell. JAMES HUDSON.

No. 36.—*Lord J. Russell to Captain Harris.*

Sir, *Foreign Office, February* 17, 1860.

With reference to your despatch of the 8th instant, inclosing a copy of a declaration, signed by 134 of the inhabitants of Contamines, advocating the union of Faucigny with Switzerland, in the event of the cession of other parts of Savoy to France, I have to state to you that Her Majesty's Government are glad to see that the inhabitants of Contamines declare their devotion to the King of Sardinia.

I am, &c.

Captain Harris. J. RUSSELL.

No. 37.—*Earl Cowley to Lord J. Russell.*—(*Received February* 21.)

My Lord, *Paris, February* 18, 1860.

In compliance with the instructions contained in your Lordship's despatch of the 13th instant, on the subject of the annexation of Savoy to France, I read that despatch to M. Thouvenel yesterday, as also your Lordship's despatch of the 28th ultimo on the same subject, though the latter had been previously communicated to him.

M. Thouvenel did not express any desire that I should leave copies with him. He said that your Lordship's reasoning, though

powerful, could be answered; but I cannot say whether it is his Excellency's intention to reply to the despatches or not.

I have, &c.

Lord J. Russell. COWLEY.

CONVENTION between The United States and Costa Rica, for the Adjustment of Claims.—Signed at San José, July 2, 1860.

[Ratifications exchanged at Washington, November 9, 1861.]

THE United States of America and the Republic of Costa Rica, desiring to adjust the claims of citizens of said States, against Costa Rica, in such a manner as to cement the good understanding and friendly relations now happily subsisting between the two Republics, have resolved to settle such claims by means of a Convention; and, for that purpose, have appointed and conferred full powers, respectively, to wit:

The President of The United States, on Alexander Dimitry, Minister Resident of said United States, in the Republic of Costa Rica, and his Excellency the Constitutional President of said Republic of Costa Rica on Manuel José Carazo and Francisco Maria Yglesias, who, upon an exchange of their plenary powers, which were found in good and proper form, have agreed to the following Articles:

ART. I. It is agreed that all claims of citizens of The United States, upon the Government of Costa Rica, arising from injuries to



exercise of authority, by the latter, within the territory of the former, shall be considered as one proper for the action of the Board of Commissioners herein provided for.

In case of the death, absence, or incapacity, of either Commissioner, or in the event of either Commissioner's omitting, or ceasing to act, the Government of the United States of America, or that of the Republic of Costa Rica, respectively, or the Minister of the latter, in The United States, acting by its direction, shall forthwith proceed to fill the vacancy thus occasioned.

II. The Commissioners so named shall meet at the city of Washington, within 90 days from the exchange of the ratifications of this Convention; and, before proceeding to business, they shall, each of them, exhibit a solemn oath, made and subscribed before a competent authority, that they will carefully examine into, and impartially decide, according to the principles of justice and of equity, and to the stipulations of treaty, upon all the claims laid before them, under the provisions of this Convention, by the Government of The United States, and in accordance with such evidence as shall be submitted to them on the part of said United States and of the Republic of Costa Rica, respectively. And their oath, to such effect, shall be entered upon the record of their proceedings.

Said Commissioners shall then proceed to name an arbitrator, or umpire, to decide upon any case or cases, concerning which they may disagree, or upon any point or points of difference which may arise in the course of their proceedings. And if they cannot agree in the selection, the arbitrator, or umpire, shall be appointed by the Minister of His Majesty the King of the Belgians, to The United States, whom the two High Contracting Parties shall invite to make such appointment, and whose selection shall be conclusive on both parties.

III. The arbitrator, or umpire, being appointed, the Commissioners shall, without delay, proceed to examine and determine the claims which may be presented to them, under the provisions of this Convention, by the Government of The United States, as stated in the preceding Article; and they shall hear, if required, one person in behalf of each Government, on every separate claim.

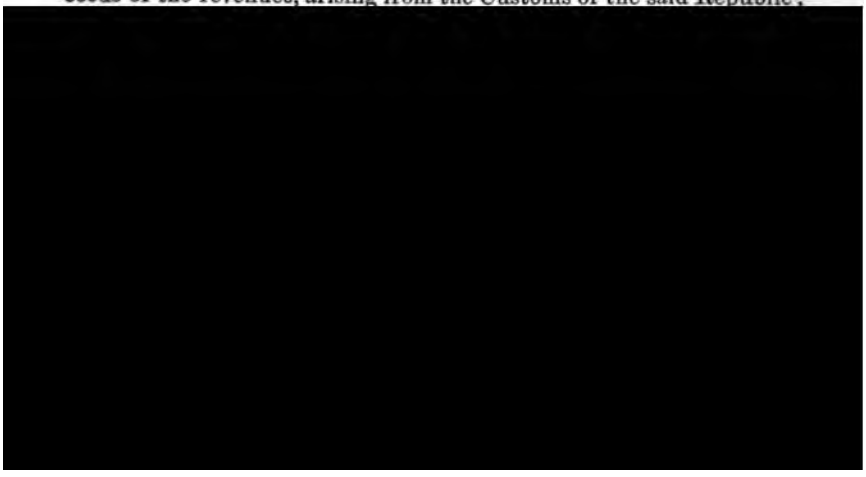
Each Government shall furnish, upon request of either of the Commissioners, such papers in its possession as may be deemed important to the just determination of any claims of citizens of The United States, referred to the Board, under the provision of Article I.

In cases, whether touching injuries to the person, limb, or life of any said citizens, or damages committed, as stipulated, in Article I, against their property, in which the Commissioners may agree to

award an indemnity, they shall determine the amount to be paid. In cases in which said Commissioners cannot agree, the points of difference shall be referred to the arbitrator, or umpire, before whom each of the Commissioners may be heard, and his decision shall be final.

IV. The Commissioners shall issue certificates of the sums to be paid to the claimants, respectively, whether by virtue of the awards agreed to between themselves, or of those made by them, in pursuance of decisions of the arbitrator, or umpire; and the aggregate amount of said sums, decreed by the certificates of award made by the Commissioners, in either manner above indicated, and of the sums also accruing from such certificates of award as the arbitrator, or umpire, may, under the authority hereinafter conferred by Article VII, have made and issued, with the rate of interest stipulated in the present Article, in favour of any claimant, or claimants, shall be paid to the Government of The United States, in the city of Washington, in equal semi-annual instalments. It is, however, hereby agreed, by the Contracting Parties, that the payment of the first instalment shall be made 8 months from the termination of the labours of the Commission; and, after such first payment, the second, and each succeeding one, shall be made semi-annually, counting from the date of the first payment; and the whole payment of such aggregate amount, or amounts, shall be perfected within the term of 10 years from the termination of said Commission; and each of said sums shall bear interest (also payable semi-annually) at the rate of 6 per cent. per annum, from the day on which the awards, respectively, will have been decreed.

To meet these payments, the Government of the Republic of Costa Rica hereby specially appropriates 50 per cent. of the net proceeds of the revenues, arising from the Customs of the said Republic;



agree for ever to release the Government of the Republic of Costa Rica from any further accountability for claims which shall be rejected, either by the Board of Commissioners, or by the arbitrator, or umpire aforesaid; or for such as, being allowed by either the Board or the umpire, the Government of Costa Rica shall have provided for and satisfied in the manner agreed upon in Article IV.

VII. In the event, however, that upon the termination of the labours of said Commission stipulated for in Article V of this Convention, any case or cases should be pending before the umpire, and awaiting his decision, it is hereby understood and agreed by the two Contracting Parties that, though the Board of Commissioners may, by such limitation, have terminated their action, said umpire is hereby authorized and empowered to proceed to make his decision or award in such case or cases pending as aforesaid; and, upon his certificate thereof, in each case, transmitted to each of the two Governments, mentioning the amount of indemnity, if such shall have been allowed by him, together with the rate of interest specified by Article IV, such decision or award shall be taken and held to be binding and conclusive, and it shall work the same effect as though it had been made by both the Commissioners under their own agreement, or by them upon decision of the case or of the cases, respectively, pronounced by the umpire of said Board, during the period prescribed for its sessions: Provided, however, that a decision on every case that may be pending at the termination of the labours of the Board shall be given by the umpire within 60 days from their final adjournment; and that at the expiration of the said 60 days the authority and power hereby granted to said umpire shall cease.

VIII. Each Government shall pay its own Commissioner; but the umpire, as well as the incidental expenses of the Commission, including the defrayal of the services of a secretary, who may be appointed under Article V, shall be paid one-half by The United States, and the other half by the Republic of Costa Rica.

IX. The present Convention shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate of the said States; and by the President of the Republic of Costa Rica, with the consent and approbation of the Supreme Legislative Power of said Republic; and the ratifications shall be exchanged in the city of Washington, within the space of 8 months from the date of the signature hereof, or sooner if possible.

In faith whereof, and by virtue of our respective full powers, we, the Undersigned, have signed the present Convention, in duplicate, and have hereunto affixed our seals.

Done at the city of San José, on the 2nd day of July, in the year 1860, and in the 84th year of the independence of the United States of America, and of the independence of Costa Rica the 39th.

(L.S.) ALEX'R DIMITRY.
(L.S.) MANUEL J. CARAZO.
(L.S.) FRAN'CO M. YGLESIAS.

TREATY of Amity, Commerce, Navigation, and for the Surrender of Fugitives, between The United States and Venezuela.—Signed at Caracas, August 27, 1860.*

[Ratifications exchanged at Caracas, August 9, 1861.]

THE United States of America and the Republic of Venezuela, equally animated with the desire of maintaining the cordial relations, and of tightening, if possible, the bonds of friendship between the two countries, as well as to augment by all the means at their disposal, the commercial intercourse of their respective citizens, have mutually resolved to conclude a general Convention of Amity, Commerce and Navigation, and for the surrender of fugitive criminals. For this purpose, they have appointed as their Plenipotentiaries, to wit: the President of The United States, Edward A. Turpin, Minister Resident near the Government of Venezuela; and the President of Venezuela, Pedro de Las Casas, Secretary of State in the Department of Foreign Relations, who, after a communication of their respective full powers, have agreed to the following Articles:

ART. I. It is the intention of the High Contracting Parties that



necessary for their return, and shall be given to them for their vessels and the effects which they may wish to carry with them or send away, and such passports shall be a safe conduct against the insults and captures which privateers may attempt against their persons and effects, and the money, debts, shares in the public funds, or in banks, or any other property, personal or real, belonging to the citizens of the one party in the territories of the other shall not be confiscated or sequestrated.

II. The citizens of each of the High Contracting Parties, residing or established in the territory of the other, shall be exempt from all compulsory military service by sea or by land, and from all forced loans or military exactions or requisitions; nor shall they be compelled to pay any contributions whatever higher or other than those that are or may be paid by native citizens.

III. The citizens of the Contracting Parties shall be permitted to enter, sojourn, settle, and reside in all parts of said territories; and such as may wish to engage in business shall have the right to hire and occupy warehouses, provided they submit to the laws, as well general as special, relative to the rights of travelling, residing, or trading. While they conform to the laws and regulations in force, they shall be at liberty to manage themselves their own business, subject to the jurisdiction of either party, as well in respect to the consignment and sale of their goods by wholesale or retail, as with respect to the loading, unloading, and sending off their ships. They may also employ such agents or brokers as they may deem proper, and shall in all these cases be treated as the citizens of the country wherein they reside; it being, nevertheless, distinctly understood that they shall be subject to such laws and regulations also in respect to wholesale or retail. They shall have free access to the tribunals of justice, in cases to which they may be a party, on the same terms which are granted by the laws and usage of the country to native citizens; for which purpose they may employ in defence of their interests and rights such advocates, attorneys, and other agents as they may think proper.

IV. The citizens of each of the High Contracting Parties, residing in the other, shall enjoy the most perfect liberty of conscience. They shall be subjected to no inconveniences whatever on account of their religious belief. Nor shall they in any manner be annoyed or disturbed in the exercise of their religious worship in private houses, or in the chapels and places which they may select for that purpose, provided that, in so doing, they observe the decorum due to the laws, usages, and customs of the country. It is likewise agreed that the citizens of the one country dying in the territory of the other, may be interred either in the ordinary cemeteries, or in such others as may be selected for that purpose by their

own Government, or by their personal friends or representatives, with the consent of the local authorities. All such cemeteries, and funeral processions going to or returning from them, shall be protected from violation or disturbance.

V. The citizens of each of the High Contracting Parties, within the jurisdiction of the other, shall have power to dispose of their personal property by sale, donation, testament, or otherwise; and their personal representatives, being citizens of the other Contracting Party, shall succeed to their personal property, whether by testament or *ab intestato*. They may take possession thereof, either by themselves, or by others acting for them, at their pleasure, and dispose of the same, paying such duty only as the citizens of the country wherein the said personal property is situated, shall be subject to pay, in like cases. In the absence of a personal representative, the same care shall be taken of the property as by law would be taken of the property of a native in a similar case, whilst the lawful owner may take measures for securing it. If a question should arise among claimants as to the rightful ownership of the property, the same shall be [finally] decided by the judicial tribunals of the country in which it is situated.

When on the decease of any person holding real estate within the territory of one party, such real estate would by the law of the land descend on a citizen of the other were he not disqualified by alienage, the longest term which the laws of the country in which it is situated will permit, shall be accorded to him to dispose of the same; nor shall he be subjected, in doing so, to higher or other dues, than if he were a citizen of the country wherein such real estate is situated.

VI. The High Contracting Parties hereby agree that whatever kind of produce, manufactures, or merchandize of any foreign

exported or re-exported in the vessels of the other; and the same duties, bounties, and drawbacks shall be collected and allowed, whether such exportation or re-exportation be made in vessels of the one or the other. Nor shall higher or other charges of any kind be imposed in the ports of one party on vessels of the other, than are or shall be payable in the same ports by national vessels.

VII. The preceding Article is not applicable to the coasting trade of the Contracting Parties, which is respectively reserved by each exclusively for its own citizens.

But vessels of either country shall be allowed to discharge a part of their cargoes at one port, and proceed to any other port or ports in the territories of the other to discharge the remainder, without paying higher or other port charges or tonnage dues than would be paid by national vessels in such cases, so long as this liberty shall be conceded to any foreign vessels by the laws of both countries.

VIII. For the better understanding of the preceding stipulations, it has been agreed that every vessel belonging exclusively to a citizen or citizens of Venezuela, and whose captain is also a citizen of the same, such vessel having also complied with all the other requisites established by law to acquire such national character, though the construction and crew are or may be foreign, shall be considered, for all the objects of this Treaty, as a Venezuelan vessel.

IX. No higher or other duty shall be imposed on the importation into The United States of any article the growth, produce, or manufacture of Venezuela, or of her fisheries; and no higher or other duty shall be imposed on the importation into Venezuela of any article the growth, produce, or manufacture of The United States or their fisheries, than are or shall be payable on the like articles the growth, produce, or manufacture of any other foreign country or its fisheries.

No other or higher duties or charges shall be imposed in The United States on the exportation of any article to Venezuela, nor in Venezuela, on the exportation of any article to The United States, than such as are or shall be payable on the exportation of the like article to any other foreign country.

No prohibition shall be imposed on the importation of any article the growth, produce, or manufacture of The United States or their fisheries, or of Venezuela and her fisheries, from or to the ports of The United States or Venezuela, which shall not equally extend to every other foreign country. If, however, either party shall hereafter grant to any other nation any particular favour in navigation or commerce, it shall immediately become common to the other party, freely, where it shall be freely granted to such other nation, or for the same equivalent, when the grant shall be conditional.

X. Should one of the High Contracting Parties hereafter impose discriminating duties upon the products of any other nation, the other party shall be at liberty to determine the manner of establishing the origin of its own products intended to enter the country by which the discriminating duties are imposed.

XI. When any vessel of either party shall be wrecked, stranded, or otherwise damaged on the coasts, or within the jurisdiction of the other, their respective citizens shall receive, as well for themselves as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the accident happened, and they shall be liable to pay the same charges and dues of salvage as the said inhabitants would be liable to pay in a like case.

If the repairs which a stranded vessel may require shall render it necessary that the whole or any part of her cargo should be unloaded, no duties of custom, charges, or fees on such cargo as may be carried away shall be paid, except such as are payable in like case by national vessels.

It is understood nevertheless that if, while the vessel is under repair, the cargo shall be unladen and kept in a place of deposit destined for the reception of goods, the duties on which have not been paid, the cargo shall be liable to the charges and fees lawfully due to the keepers of such warehouses.

XII. It shall be lawful for the citizens of either country to sail with their ships and merchandize (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade with their ships and merchandize with perfect security and liberty, from the countries, ports, and places of those who are enemies of either party, without any opposition or disturbance whatsoever, and to pass not only directly from the places and ports of the enemy aforementioned to neutral ports and places

or invested by the other, be restrained from quitting such place with her cargo, nor, if found therein after the reduction and surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

XIII. In order to regulate what shall be deemed contraband of war, there shall be comprised under that denomination, gunpowder, saltpetre, petards, matches, balls, bombs, grenades, carcasses, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannons, mortars, their carriages and beds, and generally all kinds of arms, ammunition of war, and instruments fit for the use of troops; all the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibitied goods, whether belonging to the same or a different owner.

XIV. It is hereby stipulated that free ships shall give a freedom to goods, and that everything shall be deemed free and exempt which shall be found on board the ships belonging to the citizens of either of the Contracting Parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to either party, they are not to be taken out of that free ship unless they are soldiers, and in actual service of the enemy.

XV. In time of war the merchant ships belonging to the citizens of either of the Contracting Parties which shall be bound to a port of the enemy of one of the parties and concerning whose voyage and the articles of their cargo there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas as in the ports or roads, not only their passports but likewise their certificates, showing that their goods are not of the quality of those which are specified to be contraband in Article XIII of the present Convention.

XVI. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that when one party shall be engaged in war, and the other party be neutral, the ships of the neutral party shall be furnished with passports, that it may appear thereby that the ships really belong to the citizens of the neutral party; they shall be valid for any number of voyages, but shall be renewed every year—that is, if the ship happens to return home in the space of a year. If the ships are laden they shall be provided, not only with the passports above mentioned, but also with certificates, so that it may be known whether they carry any contraband goods. No other paper shall be required, any usage or

ordinance to the contrary notwithstanding. And if it shall not appear from the said certificates that there are contraband goods on board, the ships shall be permitted to proceed on their voyage. If it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up the offer shall be accepted, and a receipt for the same shall be given, and the ship shall be at liberty to pursue its voyage unless the quantity of the contraband goods be greater than can conveniently be received on board the ship-of-war or privateer, in which case, as in all other cases of just detention, the ship shall be carried into the nearest safe and convenient port for the delivery of the same.

If any ship shall not be furnished with such passport or certificates as are above required for the same, such case may be examined by a proper judge or tribunal, and if it shall appear from other documents or proofs, admissible by the usuage of nations, that the ship belongs to the citizens or subjects of the neutral party, it shall not be confiscated, but shall be released with her cargo (contraband goods excepted), and be permitted to proceed on her voyage.

If the master of a ship, named in the passport, should happen to die, or be removed by any other cause, and another put in his place, the ship and cargo shall, nevertheless, be equally secure, and the passport remain in full force.

XVII. If the ships of the citizens of either of the parties shall be met with on the high seas, by any ship-of-war or privateer of the other, for the avoiding of any disorder, the said ships-of-war or privateers shall remain out of cannon shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship shall exhibit his passport con-



two parties reciprocally engaging not to admit under the protection of their convoys ships which shall have on board contraband goods destined to an enemy.

XIX. In all cases where vessels shall be captured, or detained to be carried into port, under pretence of carrying to the enemy contraband goods, the captor shall give a receipt for such of the papers of the vessel as he shall retain, which receipt shall be annexed to a copy of the said papers; and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales, or vessels, found on board, or remove the smallest part of the goods, unless the lading be brought on shore in presence of the competent officers, and an inventory be made by them of the same. Nor shall it be lawful to sell, exchange, or alienate the said articles of contraband in any manner, unless there shall have been lawful process, and the competent judge, or judges shall have pronounced against such goods sentence of confiscation.

XX. And in such time of war, that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed that it shall not be lawful to remove the master, commander, or supercargo of any captured ship from on board thereof, during the time the ship may be at sea after her capture, or pending the proceedings against her, or her cargo, or anything relating thereto; and in all cases where a vessel of the citizens of either party shall be captured or seized and held for adjudication, her officers, passengers, and crew shall be hospitably treated; they shall not be imprisoned or deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding for the captain, supercargo, and mate 500 dollars each, and for the sailors and passengers 100 dollars each.

XXI. It is further agreed that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either of the parties shall pronounce judgment against any vessel, or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel without any delay, he paying the legal fees for the same.

XXII. And that more abundant care may be taken for the security of the citizens of the Contracting Parties, and to prevent their suffering injuries, all commanders of ships-of-war and privateers, and all others the said citizens shall forbear doing any damage to those of the other party, or committing any outrage against them, and if they act to the contrary they shall be punished, and shall also be bound in their persons and estates to make satisfaction and

reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of 7,000 dollars, or of 9,400 dollars Venezuelan currency, or if said ship be provided with above 150 seamen or soldiers, in the sum of 14,000 dollars, or 18,800 dollars Venezuelan currency, to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit during her cruize, contrary to the tenor of this Convention, or to the laws and instructions for regulating their conduct; and, further, that in all cases of aggressions said commission shall be revoked and annulled.

XXIII. When the ships-of-war of the two Contracting Parties or those belonging to their citizens which are armed in war shall be admitted to enter with their prizes the ports of either of the two Parties, the said public or private ships, as well as their prizes, shall not be obliged to pay any duty either to the officers of the place, the judges, or any others; nor shall such prizes, when they come to and enter the ports of either party, be arrested or seized, nor shall the officers of the place make examination concerning the lawfulness of such prizes, but they may hoist sail at any time and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships-of-war shall be obliged to show. It is understood, however, that the privileges conferred by this Article shall not extend beyond those allowed by law or by Treaty with the most favoured nations.

XXIV. It shall not be lawful for any foreign privateers who



commission or letters of marque for arming any ship or ships to act as privateers against the citizens or inhabitants of Venezuela, or any of them, or the property of any of them, from any Prince or State with which the said Republic shall be at war; and if any person of either nation shall take such commissions or letters of marque, he shall be punished according to their respective laws.

XXVI. The High Contracting Parties grant to each other the liberty of having in the ports of the other Consuls or Vice-Consuls of their own appointment, who shall enjoy the same privileges and powers as those of the most favoured nation; but if any of the said Consuls or Vice-Consuls shall carry on trade, they shall be subjected to the same laws and usages to which private individuals of their nation are subjected in the same place.

It is understood that whenever either of the two Contracting Parties shall select a citizen of the other for a Consular Agent, to reside in any ports or commercial places of the latter, such Consul or Agent shall continue to be regarded, notwithstanding his quality of a foreign Consul, as a citizen of the nation to which he belongs, and consequently shall be subject to the laws and regulations to which natives are subjected in the place of his residence. This obligation, however, shall in no respect embarrass the exercise of his consular functions or affect the inviolability of the consular archives.

The said Consuls and Vice-Consuls shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the masters and crews of the vessels belonging to the nation whose interests are committed to their charge without the interference of the local authorities, unless their assistance should be required, or the conduct of the crews or of the captain should disturb the order or tranquillity of the country. It is, however, understood that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return, to the judicial authority of their own country.

The said Consuls and Vice-Consuls are authorized to require the assistance of the local authorities for the arrest and imprisonment of the deserters from the ships-of war and merchant vessels of their country. For this purpose they shall apply to the competent tribunals, judges, and officers, and shall, in writing, demand such deserters, proving by the exhibition of the registers of the vessels, the muster-rolls of the crews, or by any other official documents, that such individuals formed part of the crews; and on this claim being substantiated the surrender shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the Consuls and Vice-Consuls, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be sent to the vessels to which they belong, or to others of the same

country. But if not sent back within 3 months of the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause. However, if the deserter shall be found to have committed any crime or offence, his surrender may be delayed until the tribunal before which his case shall be pending shall have pronounced its sentence and such sentence shall have been carried into effect.

XXVII. The United States of America and the Republic of Venezuela, on requisitions made in their name through the medium of their respective Diplomatic and Consular Agents, shall deliver up to justice persons who, being charged with the crimes enumerated in the following Article, committed within the jurisdiction of the requiring party, shall seek asylum or shall be found within the territories of the other: Provided, that this shall be done only when the fact of the commission of the crime shall be so established as to justify their apprehension and commitment for trial, if the crime had been committed in the country where the persons so accused shall be found; in all of which the tribunals of said country shall proceed and decide according to their own laws.

XXVIII. Persons shall be delivered up, according to the provisions of this Convention, who shall be charged with any of the following crimes, to wit: murder (including assassination, parricide, infanticide, and poisoning) attempt to commit murder, rape, forgery, the counterfeiting of money, arson, robbery with violence, intimidation, or forcible entry of an inhabited house, piracy, embezzlement by public officers, or by persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

XXIX. On the part of each country the surrender shall be made only by the authority of the executive thereof. The expenses



each of the Contracting Parties, and the ratifications shall be exchanged at Caracas, as soon as circumstances shall admit.

In faith whereof the respective Plenipotentiaries have signed the foregoing Articles, in the English and Spanish languages, and they have hereunto affixed their seals.

Done in duplicate, at the city of Caracas, this 27th day of August, in the year of our Lord, 1860.

(L.S.) E. A. TURPIN.
(L.S.) PEDRO DE LAS CASAS.

CORRESPONDENCE between Great Britain, Austria, France, &c., respecting the Affairs of Italy.—January—April, 1860.*

No. 1.—*Lord A. Loftus to Lord J. Russell.*—(*Rec. January* 16.)

My Lord, *Vienna, January* 12, 1860.

In my late conversation with Count Rechberg on the subject of the dangers to be apprehended from a conflict between the Papal troops and the army of Central Italy, his Excellency took occasion to animadvert in strong terms on the continued attempts of the Sardinian Government to incite the populations of Venetia and the Southern Tyrol to throw off their allegiance to Austria.

Count Rechberg stated that there was one point on which he was happy to say he wholly participated in the views of Her Majesty's Government, namely, in a desire to preserve the general peace of Europe; but that no tranquillity or repose could exist, nor could the security of peace be assured, so long as the Sardinian Government continued to foment discord and insurrection within the States of her neighbour.

"Peace," said his Excellency, "has been now signed between us; all we ask is that this peace shall be faithfully respected."

I inquired of his Excellency whether he had any real grounds, any positive facts, in proof of the serious charge he had thus brought against the Sardinian Government; for that it was extremely difficult to rely on mere general reports, which, in many cases, were much exaggerated, and which oftentimes on examination proved to be groundless.

His Excellency replied that his information in this respect was most authentic, and he would relate to me the following incident, which fully substantiated the charge he had made.

Within very lately a proposal was made to an influential person

* Laid before Parliament, 1860.

in the Southern Tyrol to aid and assist in getting up a popular demonstration in favour of the annexation of that Province to Sardinia; and it was suggested that a deputation should be sent to the Congress when it met at Paris, with a petition praying for the separation of the Southern Tyrol from Austria, and its incorporation with Sardinia.

The reply given was a remarkable one. It stated that any such proposal would render but a bad service to Sardinia, as that province formed part of the Germanic Confederation, and that consequently any attempt on the part of Sardinia to acquire possession of it would not only be fruitless, but would arouse the susceptibilities and hostility of the whole German nation.

In reply to my observation that this proposal might possibly have been put forth by some unauthorized political emissary without the knowledge or sanction of the Sardinian Government, Count Rechberg stated that such was not the case, as it had emanated from Count Cavour, and had been related to him by the person to whom it had been addressed. I have, &c.

Lord J. Russell. AUGUSTUS LOFTUS.

No. 2.—Lord A. Loftus to Lord J. Russell.—(Rec. January 16.)

MY LORD, *Vienna, January 12, 1860.*

AT an interview I had with Count Rechberg on Monday last, I stated to his Excellency, that from information which had reached Her Majesty's Government, certain apprehensions were entertained that the troops which had been lately raised in the Austrian States for the Papal service would attack the position of the army of Central Italy in the Romagna, and that in view of the grave results which such a measure might give rise to, Her Majesty's Government sin-

[redacted]

it. His Excellency admitted that some Austrian subjects had taken service in the Papal army, but he stated that their number, although greatly exaggerated, was very small; and he further adverted to the fact that a far greater number of Austrian subjects were to be found serving in the ranks of the Italian army under General Fanti. "Why should you not, therefore," said his Excellency, "equally expostulate at the presence of these latter under arms for the Italian cause? We have no object in restraining individuals from employing their labour as they think fit. We see no reason to keep our population under lock and key. We have not endeavoured to prevent those who wished to join the Italian army from doing so, nor can we exercise restraint on others. On the contrary, we consider the means of subsistence thus offered to persons who have no employment, rather as a gain than a loss."

I replied to his Excellency, that the subject to which I had called his particular attention referred to the grave dangers which might result if, in consequence of the presence of this additional force, the Pope should attempt to regain Bologna, or make any attack against the army of Central Italy. If such an unfortunate occurrence were to happen, it would lead to a renewal of the war in Italy; and in the interest of Austria herself, of Italy, and of Europe, it became the duty of every one to endeavour to avert such a deplorable event.

Count Rechberg replied that the Pope was an independent Sovereign, and that no one could contest his undoubted right to subdue a province which had revolted against him—a province which ormed part of his lawful territory. His Excellency considered that the apprehensions entertained on this subject were unfounded; for he could not think it probable that the Papal Government, whose military forces did not exceed 8,000 men, would ever commit an act so hazardous and so impolitic as to attack an army of 50,000!

With reference to the asserted pretext for Sardinian intervention, if any attack were made by the Papal army against Bologna (an eventuality which his Excellency in no wise contemplated), Count Rechberg stated that he could not recognise in such a case any right of Sardinia to interfere, or to occupy Central Italy; and that were she to do so, it would be a flagrant violation of her Treaty engagements; and his Excellency considered that if any such eventuality were to be apprehended, the influence of Her Majesty's Government might be usefully exerted to dissuade Sardinia from taking a step from which it was feared that such disastrous consequences might result.

Count Rechberg again repeated that the Imperial Government had nothing to do with the recruitments which had taken place for the Papal service; that they had equally refrained from opposing

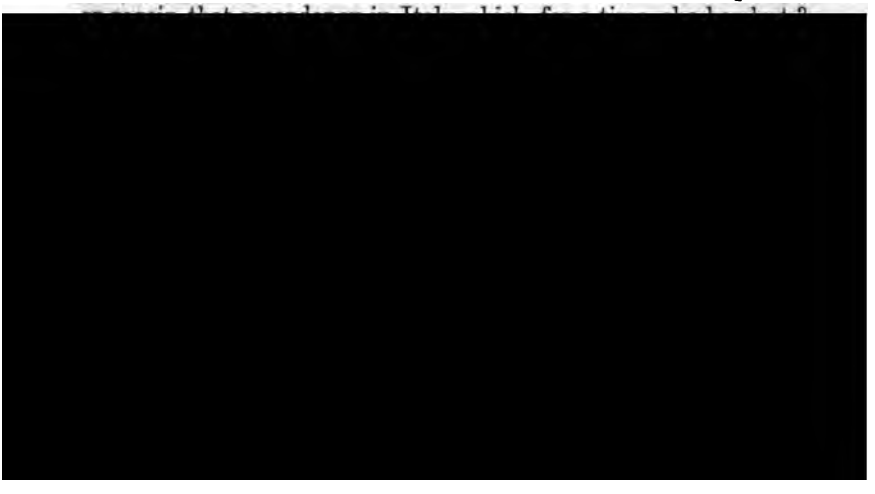
the departure from Venetia and the Southern Tyrol of those who had joined the ranks of the Italian army; and he emphatically stated that the Imperial Government could not recognize as "Austrian troops" those of their subjects who had taken service in a foreign State. I stated to his Excellency that the complications which might arise therefrom were of an equally serious character whether the enlistment took place with or without the sanction of the Imperial Government, and that it was to the dangerous consequences which might result from the presence of Austrian subjects in the Papal ranks to which I had invited his serious attention. I could only trust, therefore, that his Excellency would recognize the gravity of this question; and that the Imperial Government, in their own interest, as well as in that of Europe would use their best influence to avert the serious consequences which a conflict between the Papal forces and the army of Central Italy must inevitably produce. I have, &c.

Lord J. Russell. AUGUSTUS LOFTUS.

No. 3.—Lord J. Russell to Lord A. Loftus.

MY LORD, *Foreign Office, January* 14, 1860.

IN addressing you in my despatch of the 3rd of December on the subject of the affairs of Italy, I said, "Even supposing the Emperor Napoleon not to be so decidedly pledged as he is against a restoration by force, it is worthy of the wisdom of the Austrian Government to reflect what would be the inevitable consequences of such a restoration, could it be effected. Would not those consequences be a struggle, constantly renewed, to obtain that independence which had for a time been frustrated, and a necessity for Austria to make efforts which her finances could ill bear, to preserve



constantly recurring by the Italian people to acquire the independence of which they had had a temporary enjoyment, and to the efforts which Austria would make to preserve or regain that ascendancy in Italy which she had lost, Count Rechberg stated it was an error to suppose that Austria was striving or anxious to regain that ascendancy, or to exercise an influence in Italy; he could honestly declare that Austria had no such wish; that the costly experience of the past had given her a salutary lesson in this respect, and that she neither entertained the wish nor the intention of interfering in Italian affairs."

Encouraged by this declaration which, if not verbally accurate, no doubt represents the sentiments and intentions of the Austrian Government, Her Majesty's Government venture to hope that propositions to the following effect might be accepted by the Emperor of Austria:

1. That France and Austria should agree not to interfere for the future by force in the internal affairs of Italy, unless called upon to do so by the unanimous assent of the 5 Great Powers of Europe.

2. That, in pursuance of this agreement, the Emperor of the French should concert with His Holiness the Pope as to the evacuation of Rome by the troops of France. The time and manner of that evacuation to be so arranged as to afford the Papal Government sufficient opportunity to garrison Rome with the troops of His Holiness, and to take every precaution against disorder and outrage. Arrangements to be made for the evacuation of Northern Italy by the troops of France at a convenient period.

3. The internal government of Venetia not to be in any way matter of negotiation between the European Powers.

A further proposition has been made to France to the following effect:

4. Great Britain and France to invite the King of Sardinia to agree not to send troops into Central Italy, until its several States and Provinces shall, by a new vote of their Assemblies, after a new election, have solemnly declared their wishes as to their future destiny. Should that decision be in favour of annexation to Sardinia, Great Britain and France will no longer require that Sardinian troops should not enter those States and Provinces.

To this proposal we do not ask the assent of Austria, but the purport of it we are by no means desirous to conceal from her.

We do not ask—we do not expect—the recognition by Austria of any authority in Central Italy which, according to her principles, is not entitled to such recognition. Great Britain and France, whilst they acknowledge the vast benefits to be derived from hereditary monarchy, do not think those benefits destroyed or diminished

because monarchy, in certain countries, owes part of its strength to its popular origin.

In 1848 the people of Europe, misled by wild enthusiasts, attempted to found stable Governments on Republican theories; but at the present time the people of Italy, in harmony with public opinion throughout Europe, seek for order as well as liberty beneath the dome of monarchy, supported by national consent and equal laws.

Your Lordship will read this despatch to Count Rechberg, and give a copy of it to his Excellency. I am, &c.

Lord A. Loftus. J. RUSSELL.

No. 4.—Lord J. Russell to Earl Cowley.

MY LORD, *Foreign Office, January* 15, 1860.

IT appears from the present aspect of affairs, that either the Congress will not meet at all, or that, if it should meet, it must be divided by irreconcileable differences of opinion.

Between the doctrine that it will be the duty of a Congress to restore the authority of the Pope in Romagna, and the doctrine that no force ought to be used to impose a Government or Constitution on the people of Central Italy, there can be no agreement.

Her Majesty's Government, hopeless of arriving at any general consent by means of the Congress, have taken into their serious deliberation the possibility of devising some means by which the external and internal independence of Italy might, according to the preamble of the Treaty of Zurich, be placed upon solid and durable bases.

It is clear that the occupation of Rome and Bologna by the troops of France and Austria during a period of unprecedented length in the history of foreign occupations has added a danger

In accepting the invitation of France to attend a Congress, you were instructed to say, that "Her Majesty's Government, in adverting to the correspondence which has passed between the Governments of Great Britain and France since the signature of the Preliminaries of Villafranca, find that the Emperor of the French has repeatedly declared himself opposed to the employment of force for the purpose of restoring the Grand Duke of Tuscany and the Duke of Modena.

"Her Majesty's Government rely implicitly upon these declarations, and they consider that an interference by external force to restore the authority of the Pope in Romagna would be no less opposed to the views and intentions of the Emperor of the French, than forcible intervention in the Duchies."

When your Lordship read this despatch to Count Walewski, and placed a copy of it in his Excellency's hands, no exception was taken to this statement. On the contrary, you report that when you placed a copy of the despatch in Count Walewski's hands, his Excellency, in thanking you for the communication, expressed the pleasure which the assent of Her Majesty's Government gave him.

The accuracy of the representation of the intentions of the Emperor of the French, given in my despatch, is thus amply confirmed.

Upon this foundation, Her Majesty's Government rest their hope that propositions to the following effect might be accepted by the Emperor of the French:

1. That France and Austria should agree not to interfere for the future by force in the internal affairs of Italy, unless called upon to do so by the unanimous assent of the Five Great Powers of Europe.

2. That in pursuance of this agreement the Emperor of the French should concert with His Holiness the Pope as to the evacuation of Rome by the troops of France. The time and manner of that evacuation to be so arranged as to afford the Papal Government sufficient opportunity to garrison Rome with the troops of His Holiness, and to take every precaution against disorder and outrage.

We trust that by previous arrangement and due preparation, the security of His Holiness might be fully provided for.

Arrangements to be made for the evacuation of Northern Italy by the troops of France at a convenient period.

3. The internal government of Venetia not to be in any way matter of negotiation between the European Powers.

4. Great Britain and France to invite the King of Sardinia to agree not to send troops into Central Italy until its several States and Provinces shall, by a new vote of their Assemblies, after a new election, have solemnly declared their wishes as to their future destiny. Should that decision be in favour of annexation to Sardinia,

Great Britain and France will no longer require that Sardinian troops should not enter those States and Provinces.

You will read this despatch to M. Baroche, and give him a copy of it. I am, &c.

Earl Cowley. J. RUSSELL.

No. 5.—Lord Bloomfield to Lord J. Russell.—(*Rec. January* 16.)

(Extract.) *Berlin, January* 14, 1860.

WHEN I was with Baron Schleinitz to-day, his Excellency alluded to several articles which had lately appeared in English newspapers, as also to intelligence received from official sources, which tended to imply that an understanding existed between Her Majesty's Government and that of the Emperor of the French as to the details of a policy to be pursued by them on the Italian question.

I told his Excellency that I was unable to give him any information on the subject, but that I hoped he would feel satisfied of one thing, that the understanding between the two countries was more likely than any other political arrangement to lead to a peaceful settlement of the questions at issue.

Baron Schleinitz said that he sincerely trusted there would be no renewal of the war; but his Excellency said, that although Prussia would gladly see the chances of war removed, it could hardly be expected of her that she should, as it were, with her eyes bandaged, accept as a *fait accompli* the reorganization of Italy that might be effected conjointly by England and France, when she had not been called upon to take part in the deliberations by which it was effected.



No. 6.—Lord J. Russell to Lord A. Loftus.

MY LORD, *Foreign Office, January* 18, 1860.

HER Majesty's Government approve the language held by your Lordship to Count Rechberg, as reported in your despatch of the 12th instant, respecting the apprehensions entertained lest the troops recruited in the Austrian States for the Papal service, and who arrive at Ancona in Austrian uniform, should be employed against the army of Central Italy.

Her Majesty's Government have pointed out the danger, and, for the present, they can do no more. I am, &c.

Lord A. Loftus. J. RUSSELL.

No. 7.—Lord J. Russell to Lord A. Loftus.

(Extract.) *Foreign Office, January* 18, 1860.

WITH reference to the statements made by Count Rechberg, as reported in your Lordship's despatch of the 12th instant, relative to the alleged employment of agents by Sardinia to create disaffection in Venetia and the Southern Tyrol, I have to remark that, in speaking to me on this subject, Count Apponyi said that every person who promoted union with Sardinia was reckoned a Sardinian agent.

I said that this might be; but that unless the Sardinian Government employed or favoured these persons, that Government could not be held responsible.

Count Rechberg may, no doubt, have been correctly informed that such a proposal was made by some one to the person who informed him of it; but what proof had his Excellency that it was suggested by Count Cavour?

Count Cavour can hardly be supposed not to know which part of the Tyrol forms a portion of the Germanic Confederation.

Lord A. Loftus. J. RUSSELL.

No. 8.—Lord J. Russell to Lord Bloomfield.

(Extract.) *Foreign Office, January* 18, 1860.

WITH reference to your Lordship's despatch of the 14th instant, reporting your conversation with Baron Schleinitz on the policy to be pursued for a settlement of the Italian question, I have to remark that Baron Schleinitz is in error in supposing, as he appears to do, that there is any intention to exclude Germany from participation in the final arrangement respecting Italian affairs. But, as regards his Excellency's observations as to Prussia and England coming to an agreement on the point of non-intervention in the internal proceedings of the Italians, I have to remark, that the attempt made by Her Majesty's Government in November last to come to an understanding with Prussia and Russia on that very point met with so unfavourable a reception that Her Majesty's Government are

not very willing to encounter the chance of another discouraging reply.

Her Majesty's Government have never disguised their opinion on the affairs of Italy, and have no wish to prescribe or to dictate, as they think the Italians are capable of managing their own internal affairs.

Lord Bloomfield. J. RUSSELL.

No. 9.—Lord Bloomfield to Lord J. Russell.—(*Rec. January* 28.)

Extract.) *Berlin, January* 21, 1860.

CONCEIVING that there would be no inconvenience in making known to Baron Schleinitz your Lordship's despatch of the 18th instant, as an answer to the observations which his Excellency made to me last week, and which were reported in my despatch of the 14th instant, on the policy to be pursued for a settlement of the Italian question, I took it with me this morning, and read it to him. His Excellency was certainly not satisfied at the reception with which his suggestion had been met on the subject of an understanding between the two Governments respecting non-intervention in the affairs of Italy; but, nevertheless, he did not appear surprised that Her Majesty's Government should be unwilling at the present stage of the negotiations to entertain the project.

He said there were different ways of considering the application of the principle of non-intervention. There were always exceptions to a general rule; for instance, if a house were on fire, might one not be called on to assist in extinguishing the flames? But, in the case of Italy, his Excellency said, Prussia at all events was not likely to interfere; and he asked, would other Powers follow the same course? Our conversation then turned on a French circular which has arrived here in which the question of the Congress is

[redacted]

of those benefits of freedom and equal laws which they are entitled to expect from their union with Piedmont, he will, on the other, scrupulously and faithfully observe the stipulations of the Treaty of Peace which Sardinia lately concluded with Austria. Any encouragement given by the Government of Sardinia to the discontented inhabitants of Venetia, any expectations held out by the Sardinian Ministers that they would aid the subjects of Austria in case of revolt, would give just cause of remonstrance to the Austrian Government, and might bring on a renewal of the war.

The Piedmontese Government must see that the immediate and pressing interest of Italy is a consolidation of the general peace of Europe. A fresh war in Italy would bring large foreign armies into the field, and probably leave that beautiful country, as of old, in servitude to the conqueror. I am, &c.

Sir J. Hudson. J. RUSSELL.

No. 11.—*Mr. Russell to Lord J. Russell.*—(*Received January* 25.)

MY LORD, *Rome, January* 17, 1860.

THE French Ambassador has renewed, in the name of his Emperor, to Cardinal Antonelli the advice given after the Peace of Villafranca, respecting the Romagna; namely, the appointment of a Lay Governor and a separate Administration, so as to induce the Romagnoles to acknowledge and accept again the suzerainty of the Pope. His Excellency met with the same refusal as before, and then inquired what concessions the Papal Government would be prepared to make so as to preserve those provinces; but he was told that the Pope would never make concessions of any kind, and insisted on the unconditional return of the Legations. At the same time, Cardinal Antonelli added that the Pope having already accepted the invitation to the Congress of Paris, was ready to send his Representative there whenever the Congress met, and would then advocate before the Governments of Europe the cause of order and legitimate right. I have, &c.

Lord J. Russell. ODO RUSSELL.

No. 12.—*Mr. Corbett to Lord J. Russell.*—(*Received January* 25.)

MY LORD, *Florence, January* 16, 1860.

I HAVE the honour to inclose to your Lordship an extract of a despatch from Vice-Consul Gaggiotti, at Ancona, dated the 5th instant, and also the copy of a further despatch from the same gentleman, dated the 12th instant, which report that various bodies of Swiss and Austrian soldiers who have entered the Papal service have arrived at Ancona, and that others are shortly expected there.

I have, &c.

Lord J. Russell. EDWIN CORBETT.

(*Inclosure* 1.)—*Vice-Consul Gaggiotti to Mr. Corbett.*

(Extract.) *Ancona, January* 5, 1860.

By the Austrian weekly steamers from Trieste, fresh supplies of Swiss and Austrians, enrolled by the Pontifical Government, regularly arrived here; and yesterday 150 more of them arrived on board of a craft towed into harbour by a small Papal steamer, who, after having landed, marched off to Macerata, 40 miles from Ancona, where a regiment of them is now forming.

E. Corbett, Esq. G. GAGGIOTTI.

(*Inclosure* 2.)—*Vice-Consul Gaggiotti to Mr. Corbett.*

(Extract.) *Ancona, January* 12, 1860.

About 100 more of Austrian volunteers, enrolled by the Pontifical Government, are expected daily to reach Ancona by sea from Trieste.

E. Corbett, Esq. G. GAGGIOTTI.

No. 13.—*Mr. Corbett to Lord J. Russell.*—(*Received January* 25.)

My Lord, *Florence, January* 17, 1860.

Immediately upon the receipt of your Lordships telegram of the 7th instant, I addressed a despatch to the British Vice-Consul at Ancona, a copy of which is inclosed herewith, instructing him to report to me how many Austrian recruits had arrived at Ancona and the neighbouring ports with the view of entering the Papal military service.

From the inclosed copy of Mr. Gaggiotti's answer to my communication, your Lordship will learn, that up to the 13th instant, 383 individuals, of whom 11 were officers, had arrived at Ancona from Trieste for the Papal service, and that others were expected to arrive shortly by a Papal steamer.

[redacted]

(*Inclosure* 1.)—*Mr. Corbett to Vice-Consul Gaggiotti.*

SIR, *Florence, January* 9, 1860.

IN conformity with directions which I have received from Her Majesty's Secretary of State for Foreign Affairs, I have to instruct you to endeavour to ascertain, as correctly as possible, and report to me, the number of recruits from the Austrian service who have landed at Ancona, and other neighbouring ports, for the military service of the Pope.

I send you this despatch by a special messenger, who has instructions to wait at Ancona for your answer and bring it to me.

I am, &c.

G. Gaggiotti, Esq. EDWIN CORBETT.

(*Inclosure* 2.)—*Vice-Consul Gaggiotti to Mr. Corbett.*

(Extract.) *Ancona, January* 13, 1860.

I HAVE the honour to acknowledge your despatch of the 9th instant, received yesterday evening by a special messenger, and, in conformity with your request, I beg to state that the number of Austrian recruits landed here, most of them wearing Austrian uniform of the respective regiments they belonged to, is, up to this date, 383, including 11 officers, whose names are annexed.

Of these men enrolled for the Pope's military service, a regiment is now forming at Macerata, for the completion of which more of them are forthwith to arrive here by a Papal steamer.

No landing of Austrian recruits has taken place in any other port in the Pontifical Adriatic coast.

E. Corbett, Esq. G. GAGGIOTTI.

Names of Austrian Commissioned Officers.

Major L. Volgelsung.
Captain P. Gunzel.
Lieutenant G. Hagl.
Lieutenant G. Plof.
Lieutenant G. Zadina.
Captain G. Mouttong.
Lieutenant G. Bragonie.
Lieutenant A. Dierks.
Lieutenant E. Kaffer.
Lieutenant (name unknown).
Captain F. Fuchmann.

No. 14.—*Mr. Corbett to Lord J. Russell.*—(*Received February* 25.)

(Extract.) *Florence, January* 17, 1860.

I have the honour to inclose to your Lordship the copy of a despatch addressed to me by the British Vice-Consul at Ancona.

Lord J. Russell. EDWIN CORBETT.

(*Inclosure.*)—*Vice-Consul Gaggiotti to Mr. Corbett.*

(Extract.) *Ancona, January* 13, 1860.

I HAVE the honour to report the following circumstances:

The long dismal state of public mind here has in some degree been enlivened by the publication of the late French pamphlet, on the subject of which the greatest hopes are now raised.

A general rise of the people is only arrested by the Swiss force, though some partial defection is now and then taking place in it.

E. Corbett, Esq. G. GAGGIOTTI.

No. 15.—*Lord J. Russell to Sir J. Crampton.*

SIR, *Foreign Office, January* 25, 1860.

I INCLOSE herewith copies of despatches which I have addressed to Lord Cowley and to Lord Augustus Loftus, containing the proposals made by Her Majesty's Government to France and Austria with regard to the settlement of the Italian question, and I have to instruct you to read these papers to Prince Gortchakoff; but as we have nothing at present to ask of Russia, you will not give his Excellency copies of them.

Her Majesty's Government see no advantage in the meeting of a Congress, unless some agreement can be come to previously between the 5 Great Powers. In such a case a Congress might be of use to ratify and record the changes made in the Treaties of 1815.

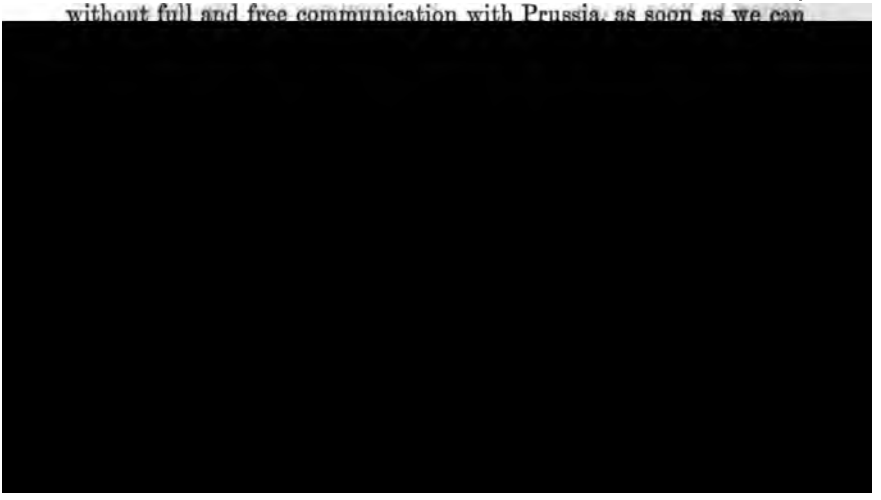
I am, &c.

Sir J. Crampton. J. RUSSELL.

No. 16.—*Lord J. Russell to Lord Bloomfield.*

MY LORD, *Foreign Office, January* 25, 1860.

WITH reference to the observations made by Baron Schleinitz, as reported in your Lordship's despatch of the 21st instant, with regard to the Italian question, I have to state that we have no wish to act without full and free communication with Prussia, as soon as we can



No. 17.—*Mr. Corbett to Lord J. Russell.*—(*Received January* 26.)

MY LORD, *Florence, January* 21, 1860.

WITH reference to my despatch of the 17th instant, I have the honour to inclose the copy of a letter addressed to me by Mr. Vice-Consul Gaggiotti, announcing the arrival of a further batch of Austrian recruits for the Papal service, consisting of 199 men and 3 officers. Mr. Gaggiotti adds that 40 more were expected on the 18th instant. I have, &c.

Lord J. Russell. EDWIN CORBETT.

(*Inclosure.*)—*Vice-Consul Gaggiotti to Mr. Corbett.*

SIR, *Ancona, January* 17, 1860.

I HAVE the honour to report that 202 men, 3 officers inclusive, have landed here from on board a Papal steamer from Trieste; and to-morrow 40 more of these Austrian recruits will arrive here, likewise from Trieste, on board of an Austrian steamer, when they will all join their fellow-countrymen at Macerata, where a regiment of these Austrian recruits for the Pope's army is now forming.

The works of fortifications around the outward heights of this town are being prosecuted with alacrity. I have, &c.

E. Corbett, Esq. G. GAGGIOTTI.

No. 18.—*Earl Cowley to Lord J. Russell.*—(*Received January* 26.)

MY LORD, *Paris, January* 25, 1860.

YOUR Lordship's despatch of the 15th instant, explaining the views of Her Majesty's Government upon the present state of affairs of Central Italy, and suggesting a joint course of action on the part of the French and British Governments, prescribed to me to place a copy of it in the hands of M. Baroche.

M. de Thouvenel, however, being daily expected in Paris when your Lordship's despatch reached me, and it being evident that M. Baroche could not take upon himself to determine, before his future colleague's arrival, an affair of such importance, I thought it better to await M. Thouvenel's presence in Paris to make the communication ordered by your Lordship.

I lost no time, after M. Thouvenel's installation in office, in fulfilling your Lordship's instructions; and I have had some conversation with his Excellency to-day, but more for the purpose of giving him explanations than for hearing his opinions, as he expresses himself to be too little acquainted with the Italian question at present, to be able to advise the Emperor as to the answer which should be returned to the proposals of Her Majesty's Government: but I profited by the opportunity to lay clearly and succinctly before him the views and opinions of Her Majesty's Government with regard to Central Italy, and, pointing out the

impossibility of allowing the present state of things to continue, I pressed for an early decision on the part of the Imperial Government.

M. Thouvenel assured me that no time should be lost on his part in endeavouring to make himself master of the whole question.

I have, &c.

Lord J. Russell. COWLEY.

No. 19.—*Mr. Corbett to Lord J. Russell.*—(*Received January* 28.)

My Lord, *Florence, January* 22, 1860.

By a Decree inserted in the "Monitore Toscano" of this day's date, and signed by all the Ministers, the Constitutional Charter of Sardinia is proclaimed in Tuscany; and, by a further Decree, the Sardinian Electoral Law of the 20th November, 1859, is declared in force. It is added that a future Decree will establish the modifications necessary for its application to Tuscany.

I have, &c.

Lord J. Russell. EDWIN CORBETT.

No. 20.—*Sir J. Hudson to Lord J. Russell.*—(*Received January* 28.)

My Lord, *Turin, January* 22, 1860.

The official "Gazette" of Modena has published a Decree of the Dictator, extending to the Provinces of the Emilia the Sardinian Electoral Law, under which Bologna will return 12, Ferrara 7, Forli 7, Massa-Carrara 4, Modena 10, Parma 8, Piacenza 7, Ravenna 7, and Reggio 8 Deputies.

I have, &c.

Lord J. Russell. JAMES HUDSON.

No. 21.—*Earl Cowley to Lord J. Russell.*—(*Received January* 28.)

(Extract.) *Paris, January* 27, 1860.



Emperor had so often made a declaration to this effect that it did not require a special agreement with any other Power.

M. de Thouvenel remarked that the phraseology of this point must be altered, since France and Austria, being two of the 5 Great Powers of Europe, could not be called upon to agree not to do something except by the unanimous consent of the 5 Powers. This is, of course, a mere matter of wording.

On the second point, M. de Thouvenel observed that this point also contained a principle on which no agreement with any other Power was necessary, as the Emperor, before the Congress of 1856, during the Congress, and since the Congress, had proclaimed his desire to withdraw his troops from Rome. But the troops having been sent there for the personal safety of the Pope, could not be withdrawn until that safety was insured.

I observed that by the terms of your Lordship's despatch the necessity of providing for the Pope's security was fully recognized, but I asked whether some period might not at once be fixed for the departure of the French troops, with the understanding that their stay in Rome might be prolonged, if, when that moment should arrive, it was found that there would be danger to the Pope's safety in withdrawing them.

M. Thouvenel replied that he did not think the present moment opportune for mooting this question at Rome, but that he had nevertheless received the Emperor's orders to inform the Pontifical Government that their attention would shortly be called to this matter, with the view of examining the means by which the early evacuation of the Papal States by the troops of France might be secured.

With regard to the evacuation of Northern Italy, the Emperor was also ready to effect it at a convenient period, but His Majesty could not undertake to accomplish it until he should be assured that Austria had no intention of again having recourse to force in Italy. His Majesty, indeed, was so sure that Her Majesty's Government must have the same feelings as himself in regard to this matter, that he could not doubt that any acts or declaration of the Austrian Government which would satisfy Her Majesty's Government with regard to the future would equally satisfy him.

The Emperor assents to the third point, that the internal government of Venetia shall not in any way be matter of negotiation between the European Powers, provided that His Majesty is not thereby to be understood as abandoning the right of making such observations as he may think proper to the Austrian Government, in the event of any fresh organization of Venetia emanating from the Emperor of Austria, whether in communication with the French Government, or not.

The fourth point, M. Thouvenel observed, was the most difficult. He was desired by the Emperor to state, that His Majesty personally considered the principle laid down by Her Majesty's Government, that the future destinies of the States of Central Italy should be ascertained, through the Assemblies, to be equitable and practical. But before taking any steps in conjunction with Her Majesty's Government in the sense desired by them, His Majesty considered himself to be bound in honour to address himself to the Cabinet of Vienna, to expose what had taken place since the Peace of Villafranca, and to state the reasons which led him to the conclusion that no other solution was possible than that suggested by Her Majesty's Government. His Majesty wished further to explain himself to the Cabinets of St. Petersburg and Berlin, whom he had invited to come to the Congress. This done, and the answers of those Courts received, M. Thouvenel said that he should be ready to renew the conversation with me, and to concert with Her Majesty's Government as to what should be the future line of conduct of the two Governments.

Lord J. Russell. COWLEY.

No. 22.—Earl Cowley to Lord J. Russell.—(Received January 28.)

(Extract.) *Paris, January 27, 1860.*

THERE was one point, M. Thouvenel said, on which he ventured to hope for the assistance of Her Majesty's Government. The whole Italian question, he said, would be greatly complicated if the insurrection in the Roman States spread further; and he had received the Emperor's orders to require, in the most pressing manner, Count Cavour's attention to this point. M. Thouvenel hoped that your Lordship would also instil into Count Cavour's mind the wisdom and prudence of being satisfied with the advantages already obtained.

Lord J. Russell. COWLEY.

No. 23.—Mr. Corbett to Lord J. Russell.—(Received January 30.)

MY LORD, *Florence, January 24, 1860.*

I HAVE the honour to inform your Lordship that, by a Decree dated Modena the 20th instant, and signed by Signor Farini, the Sardinian Electoral Law of November 20, 1859, is published in the provinces of the Emilia.

I have, &c.

Lord J. Russell. EDWIN CORBETT.

No. 24.—Lord A. Loftus to Lord J. Russell.—(Rec. January 30.)

(Extract.) *Vienna, January 24, 1860.*

I HAD the honour to receive, late last night, by the messenger

Ridgway, your Lordship's despatch of the 14th instant, which was forwarded to me from Paris by Earl Cowley.

I waited this morning, by appointment, on Count Rechberg, when, in conformity with your Lordship's instructions, I read that despatch to his Excellency, and placed a copy of it in his hands.

Previous to making this communication, his Excellency informed me that he had received a report from Count Apponyi of a conversation which he had held with your Lordship on the affairs of Italy, which, in one respect, had given him great satisfaction. He alluded to the opinions expressed by your Lordship respecting Venetia, which proved to him that, however the views of the two Cabinets differed on other questions of Italian policy, Her Majesty's Government still entertained a friendly disposition towards Austria with regard to that province.

His Excellency received the communication I was instructed to make with great composure and affability, and informed me that he could not, of course, make any official reply to the propositions of of Her Majesty's Government until he should have submitted them to the Emperor, and received His Majesty's orders.

His Excellency, however, in the course of conversation, and with reference to these propositions, said that, with his knowledge of the opinions of his Sovereign, he thought that he could confidently affirm that His Majesty would not consent to enter into any formal or binding engagement not to interfere in Italian affairs. His Excellency stated that the Imperial Cabinet could not loudly complain of a policy of non-intervention, without binding their hands in the face of any eventualities which might occur; although, at the same time, the Imperial Cabinet might have no intentions of interfering by force of arms in the Italian States. Count Rechberg stated that he could not accept the principle of non-intervention as a rule, however the Imperial Cabinet might, under the circumstances, deem it desirable, and even necessary for their own interests, to pursue that line of policy.

His Excellency inquired what motive Her Majesty's Government had in submitting these propositions to the Imperial Cabinet.

Great Britain, he remarked, had preserved neutrality during the war; but now, when peace had been signed between the belligerents, she apparently abandoned her neutral position, and had become an active participator.

I replied to his Excellency that, having happily kept out of the war, we were, nevertheless, anxious, and were perhaps enabled with greater impartiality to use our endeavours for the settlement of Italian affairs on a solid and durable foundation.

I stated that our interests in the questions at issue were not materially or directly concerned; or, at least, not further than they

regarded the position of a Great Power and the general welfare of Europe.

The motives, therefore, which had dictated these proposals on the part of Her Majesty's Government were neither selfish nor personal: they were inspired by a laudable wish to conciliate and harmonize divergent opinions; to prevent the unnecessary effusion of blood by a renewal of hostilities in Italy, and to endeavour to insure to the Italian people the blessings of peace and prosperity on a sure and lasting basis.

Count Rechberg then observed that a Treaty of Peace had been lately signed between his Sovereign and the Emperor of the French, and that His Majesty felt himself bound by that Treaty. How, then, could the Imperial Cabinet enter into any fresh engagement which was in opposition to that Treaty? At Villafranca, and at Zurich, the restoration of the deposed Princes had been agreed to by the two Sovereigns, and up to the present moment the French Government had given assurances that they would maintain their engagements.

I replied to his Excellency that in the present instance the Imperial Cabinet might, without recognising the general principle of "non-intervention," agree, in conjunction with France, not to interfere, by force, in the internal affairs of Italy, unless with the unanimous assent of the 5 Great Powers of Europe.

Such a course, I was led to believe from previous conversations with his Excellency, would not only be in consonance with their real intentions, but likewise with their real interests; and, secondly, I observed that the agreement for the restoration of the Italian Princes must be considered as having been taken with the understanding that no force was to be used.

As, therefore, it was now evident that the Italian Sovereigns



With the third proposition, his Excellency expressed his entire satisfaction, and he stated with a frank sincerity the gratification with which he received this expression of the opinion of Her Majesty's Government.

On the subject of the fourth proposition which had been made to France, his Excellency expressed his full sense of the justice evinced in the proposed invitation to the King of Sardinia to agree not to send troops into Central Italy under existing circumstances. He remarked, however, that Sardinian troops were already in occupation of Parma, and he stated that many of the Lombard soldiers, who, on being discharged from the Austrian army, were enrolled in the Piedmontese service in accordance with the stipulations of the Treaty of Zurich, had been transferred by the Sardinian Government to the ranks of the army of Central Italy serving under General Fanti. Many of these men, his Excellency stated, had lately presented themselves to the Austrian Consul at Ancona asking to be received back as Austrian subjects under the agreement taken at Zurich, that the citizens of Lombardy and Venetia, during the period of one year, should be at liberty to select the Government under which they chose to live.

As these men appeared in the light of military deserters from the Piedmontese army, no protection could be given to them by the Austrian Consul.

His Excellency finally observed that the Imperial Cabinet could not recognize in established Monarchies the principle of popular election, nor would they subscribe to any act or arrangement which should be in violation of the principles which they held sacred. He was, however, sensible of the consideration shown by Her Majesty's Government in bringing this proposal to the knowledge of the Imperial Cabinet without submitting it directly to their acceptance, or asking for their recognition of any authority in Central Italy which would not be in accordance with the principles of the Austrian Cabinet.

Lord J. Russell. AUGUSTUS LOFTUS.

No. 25.—Earl Cowley to Lord J. Russell.—(Received January 30.)

MY LORD, *Paris, January 28, 1860.*

I INQUIRED this afternoon of M. Thouvenel whether the despatch which he had informed me he was about to address to M. de Persigny, in answer to the late proposals of Her Majesty's Government with respect to Italy, had been sent to that Ambassador. His Excellency replied that it would be impossible for him to transmit it before Monday night. I have, &c.

Lord J. Russell. COWLEY.

No. 26.—*Earl Cowley to Lord J. Russell.*—(*Received January* 31.)
(Extract.) *Paris, January* 30, 1860.

M. THOUVENEL informed me yesterday afternoon that Prince Metternich had been ordered to call the attention of the French Government to the proceedings of Sardinian agents in Venetia. A despatch, containing a series of facts, which if true, were very regrettable, had been communicated to him by the Austrian Ambassador, and he had in consequence written to the French Envoy at Turin to speak to M. de Cavour upon the subject, and to point out how desirable it was, in the interest of Sardinia herself, and of the pacification of Italy, that proceedings of the nature of those complained of by the Austrian Government should be discouraged. M. Thouvenel added that he had reason to believe that the Austrian Government had addressed themselves to all the Great Cabinets of Europe, and he should be glad to find that your Lordship took the same view of this matter as himself.

I replied that I was not aware whether any communication of the nature made to the French Government had been also made to your Lordship, but that I knew that your Lordship had drawn the attention of Count Cavour to the danger that would arise were any encouragement given by his Government to those who might attempt to excite revolt in Venetia.

Lord J. Russell. COWLEY.

No. 27.—*M. Thouvenel to Count Persigny.*—(*Communicated to Lord J. Russell by Count Persigny, January* 31.)

M. LE COMTE, *Paris, le* 30 *Janvier*, 1860.

M. L'AMBASSADEUR d'Angleterre nous a communiqué une dépêche dans laquelle, après avoir examiné l'ensemble de la situation en Italie, et constaté la nécessité d'un accord sur le mode le plus

[redacted]

Père pour évacuer les Etats Romains lorsque l'organisation de son armée le permettrait et que nos troupes pourraient être retirées de Rome sans danger pour le maintien de l'ordre. Notre armée quitterait également le nord d'Italie dans un délai convenable.

3. L'organisation intérieure de la Vénétie serait laissée en dehors des négociations entre les Puissances.

4. Enfin, le Roi de Sardaigne serait invité par le Gouvernement de l'Empereur et celui de Sa Majesté Britannique agissant de concert, à ne point envoyer de troupes dans l'Italie Centrale, jusqu'à ce que ses divers Etats et Provinces eussent par un nouveau vote de leurs Assemblées, après une nouvelle élection, solennellement déclaré leurs vœux, et si ces Assemblées se prononçaient en faveur de l'annexion, la France et la Grande Bretagne ne s'opposeraient plus à l'entrée des troupes Sardes.

J'ai placé sous les yeux de l'Empereur la dépêche de Lord John Russell à Lord Cowley, et, après avoir pris les ordres de Sa Majesté, j'ai fait connaître à M. l'Ambassadeur d'Angleterre comment nous croyons pouvoir envisager les ouvertures du Gouvernement de Sa Majesté Britannique.

La première des 4 propositions Anglaises, lui ai-je dit, ne saurait être l'objet d'aucune difficulté. Le principe de non-intervention est une règle internationale dont personne n'apprécie plus que nous l'importance et l'autorité; et dans notre pensée, il forme l'un des éléments les plus essentiels de tout règlement sérieux et définitif de la question Italienne. Si le Gouvernement de l'Empereur est lui-même intervenu, il ne l'a fait qu'en cédant à des circonstances impérieuses, parce que, dans l'état des choses en Italie, ses intérêts lui en imposaient la nécessité; et il a toujours regardé comme le terme de ses efforts dans la Péninsule, l'établissement d'un système politique propre à prévenir désormais toute intervention. Notre sentiment à cet égard a été hautement exprimé par l'Empereur lui-même dans les occasions les plus solennelles. La proposition du Gouvernement Anglais ne ferait donc que donner une consécration diplomatique à un vœu aussi évidemment sincère que fréquemment renouvelé. J'ai dit à Lord Cowley que le Gouvernement de Sa Majesté y adhérait sans réserves. J'ai ajouté que notre opinion sur ce point n'avait jamais varié, et que nous nous croyions dès lors pleinement autorisés à y acquiescer sans entrer en explications avec les autres Cabinets.

Sur le second point, pour faire connaître à M. l'Ambassadeur d'Angleterre les dispositions du Gouvernement de l'Empereur, j'ai pu de même m'en référer à ses déclarations antérieures, et notamment à celles du premier Plénipotentiaire Français au sein du Congrès de Paris. Aujourd'hui comme à cette époque, nous désirons vivement mettre fin à l'occupation militaire des Etats Romains. Il

tarde également au Gouvernement de Sa Majesté d'évacuer les Provinces Lombardes et de faire cesser ainsi définitivement une intervention armée que les principes mêmes de notre politique nous pressent d'abréger le plus possible. Nous recueillons donc très volontiers la proposition Anglaise, aussi bien en ce qui concerne le territoire Romain que la Lombardie; mais les considérations d'opportunité présentent ici une importance que d'ailleurs le Gouvernement Anglais n'a point méconnue, et j'ai pu m'autoriser des ménagements dont il juge lui-même convenable que cette mesure soit entourée pour bien établir que l'évacuation de Rome devrait nécessairement rester subordonnée à la certitude qu'il ne saurait en résulter un danger sérieux pour la sécurité du Saint Siége, et que celle des Provinces Lombardes ne pourrait être effectuée que du moment où l'accord, soit tacite, soit avoué, des Grandes Puissances garantirait la nouvelle organisation de l'Italie.

Passant à la troisième proposition, j'ai déclaré à M. l'Ambassadeur d'Angleterre qu'elle ne me paraissait point soulever d'objection, et que le Gouvernement de l'Empereur ne peut en principe qu'y donner son assentiment. J'ai fait remarquer toutefois à Lord Cowley qu'il nous semblait utile de prévoir l'éventualité où l'Autriche croirait pouvoir négocier des conditions particulières en offrant des concessions en Vénétie, et qu'il fallait lui réserver la faculté d'examiner, dans ce cas, les ouvertures qui seraient faites par le Cabinet de Vienne.

Quant au quatrième et dernier point, M. le Comte, il touche à un ordre de considérations qui ne me permettait pas de donner, dès à présent, une réponse définitive, et j'ai dû rappeler à Lord Cowley la position du Gouvernement de l'Empereur à l'égard des autres Grandes Puissances, et en premier lieu de l'Autriche. Il nous est impossible de méconnaître les obstacles que rencontrent les pré-



en ouvrir préalablement avec la Cour d'Autriche. Nous devons maintenir la loyauté de l'Empereur et la sincérité de sa politique au dessus de toute suspicion, et nous ne saurions, en présence des stipulations de Villafranca et de Zurich, nous engager dès aujourd'hui d'une manière formelle. Si l'inefficacité de nos conseils et de nos démarches nous a démontré l'impossibilité de rétablir l'autorité des Princes dépossédés, nous n'en sommes pas moins tenus de prévenir toute fausse interprétation et d'écarter tous les doutes, en dégageant avant tout la parole de la France dans de loyales explications avec la Cour d'Autriche.

D'autre part, nous ne saurions oublier que nous avons naguère invité la Russie et la Prusse à participer au Congrès dont la réunion nous avait semblé devoir tout à la fois assurer l'entente entre les Puissances et préparer la solution des questions qui auraient été soumises à ses délibérations. Il n'a pas dépendu de nous que l'Europe ainsi assemblée ne fût appelée à consacrer un arrangement définitif, et nous craindrions de nous exposer à blesser des susceptibilités légitimes, si, nous trouvant aujourd'hui amenés par la force des choses à nous placer à un autre point de vue, nous nous abstenions de signaler aux Cabinets de St. Pétersbourg et de Berlin, la situation nouvelle que nous créent des circonstances impérieuses, et si nous négligions de les convaincre de la nécessité de rechercher des moyens plus pratiques de régler des questions qui ne sauraient sans danger être laissées plus longtemps en suspens.

J'ai donc répondu à Lord Cowley qu'en ce qui concerne la quatrième proposition le Gouvernement de l'Empereur, avant de se prononcer, croyait indispensable d'expliquer et de justifier sa situation avec la Cour d'Autriche d'une part, et, de l'autre, avec celles de Prusse et de Russie. M. l'Ambassadeur d'Angleterre m'a paru apprécier les motifs qui imposent au Gouvernement de l'Empereur cette ligne de conduite, et j'ai la confiance que le Gouvernement Anglais en reconnaîtra la justesse et la force. L'accueil que nous avons fait à ses 3 premières propositions attesterait, s'il était nécessaire, les sentiments dans lesquels nous avons reçu ses ouvertures, et il ne saurait avoir aucun doute sur notre sincère désir de combiner les solutions que comporte et appelle la situation de l'Italie Centrale.

Vous voudrez bien donner lecture et laisser copie de cette dépêche au Principal Secrétaire d'Etat de Sa Majesté Britannique.

Agréez, &c.

Le Comte Persigny. THOUVENEL.

No. 28.—Lord J. Russell to Sir J. Hudson.

SIR, *Foreign Office, January* 31, 1860.

I SEND you a copy of the despatch which, by the Queen's orders,

I wrote to Earl Cowley on the 15th instant, conveying propositions calculated, in the opinion of Her Majesty's Government, to secure the prosperity of Italy on solid and durable bases, and to prevent a renewal of the late war.

The answer of Lord Cowley, of which I likewise send you a copy, will show you that the French Government view these propositions favourably. The plan of once more testing by election and vote the deliberate wishes of the States and Provinces of Central Italy with respect to their future destiny agrees with the views of Count Cavour, as explained to me by M. Marliani, who in coming from Bologna passed through Turin. But it is essential to the successful issue of the negotiations now pending:

That no Sardinian troops should be sent into Central Italy, giving an appearance of compulsion to the vote of the Assemblies;

That no further step should be taken in the direction of annexation before the election of fresh Assemblies;

That every attempt to create disturbance and revolt in the Province of Venetia, in the Roman States still in obedience to the Pope, and in the Kingdom of Naples, should be discouraged by the King of Sardinia.

If these conditions are observed, we may hope to obtain a happy and peaceable result. But if they are not observed, both the British and the French Governments will be greatly embarrassed, and the whole plan of pacification may fall to the ground.

I am, &c.

Sir J. Hudson. J. RUSSELL.

No. 29.—Lord J. Russell to Sir J. Crampton.

SIR, *Foreign Office, February 1, 1860.*

I TRANSMITTED to you in my despatch of the 25th ultimo, a

detailed information as to the views of the Emperor in the present crisis of Italian affairs. The general nature of those views may briefly be stated to be, that the French Government acquiesces in the first 3 points stated in my despatches to Lord Cowley and to Lord Augustus Loftus; and that finding it wholly impossible to carry out the engagements entered into at Villafranca in favour of the late Sovereigns of Central Italy, it is about to address the Austrian Government frankly explaining the present state of things in Italy. It therefore appears to the French Government that the proposals of Her Majesty's Government should be accepted as offering a practical issue out of the difficulties by which the whole question is beset.

I am, &c.

Sir J. Crampton. J. RUSSELL.

No. 30.—Lord J. Russell to Lord Bloomfield.

MY LORD, *Foreign Office, February* 1, 1860.

I TRANSMITTED to you, in my despatch of the 25th ultimo, a copy of a despatch which I had addressed to Her Majesty's Ambassador at Paris and to Her Majesty's Minister at Vienna, explaining the view of Her Majesty's Government as to the settlement of the Italian question.

The despatches from those Ministers, and also from M. de Thouvenel to Count Persigny, of which I inclose copies, for your information, will show you in what manner these overtures have been received by the Courts of France and Vienna; and you will see by the inclosed copy of a despatch which I have addressed to Sir J. Hudson, the steps that Minister is instructed to take with a view to dissuade the Sardinian Government from countenancing any insurrectionary movements either in Venetia or in the Marches.

I am given to understand that the French Government are about to furnish their Ministers at Berlin and St. Petersburg with detailed information as to the views of the Emperor in the present crisis of Italian affairs. The general nature of those views may briefly be stated to be, that the French Government acquiesces in the first 3 points stated in my despatches to Lord Cowley and to Lord Augustus Loftus; and finding it wholly impossible to carry out the engagements entered into at Villafranca in favour of the late Sovereigns of Central Italy, it is about to address the Austrian Government, frankly explaining the present state of things in Italy. It therefore appears to the French Government that the proposals of Her Majesty's Government should be accepted as offering a practical issue out of the difficulties by which the whole question is beset.

I am, &c.

Lord Bloomfield. J. RUSSELL.

No. 31.—*Lord A. Loftus to Lord J. Russell.*—(*Rec. February* 2.)

MY LORD, *Vienna, January* 30, 1860.

ON waiting, yesterday, on Count Rechberg, his Excellency informed me that he had taken His Imperial Majesty's orders with respect to the proposals submitted by Her Majesty's Government (as contained in your Lordship's despatch of the 14th instant), and that an official reply to them would be transmitted this day to Count Apponyi for communication to your Lordship.

His Excellency then entered into the nature of this reply, stating the views of the Imperial Cabinet on each separate proposition of Her Majesty's Government, which are completely analogous with the personal opinions expressed to me by his Excellency, and which I reported to your Lordship in my despatch of the 24th instant.

On the subject of the first proposal of Her Majesty's Government, viz., "that Austria should agree not to interfere for the future by force in the internal affairs of Italy, unless called upon to do so by the unanimous assent of the Great Powers of Europe," Count Rechberg stated that Austria, at this moment, occupied no part of Italy beyond her own frontier, and that, therefore, her reported interference was a fiction. He stated that the Emperor of Austria could not bind himself by any formal agreement which would tie his hands at any future period, nor would such a course be consistent with the independence of will and freedom of action which appertained to a Sovereign.

"Who can tell," said his Excellency, "what may occur in 10, or even in 5, years?" His Imperial Majesty cannot, therefore, take any binding engagements in the sense proposed, nor could His Majesty assent to subject his decision on any political question to that of the other Great Powers. At the same time his Excellency

after a new election, be in favour of annexation to Sardinia, Great Britain and France will no longer require that Sardinian troops should not enter these States and Provinces."

Count Rechberg stated that the French Government had alleged as the reason for their declining to take this engagement, the existence of their Treaty engagements with Austria.

I have, &c.

Lord J. Russell. AUGUSTUS LOFTUS.

No. 32.—Lord Bloomfield to Lord J. Russell.—(Rec. February 2.)

(Extract.) *Berlin, January 31, 1860.*

In conformity with the instructions contained in your Lordship's despatch of the 25th instant, I have read to Baron Schleinitz the copies of the despatches forwarded therein, which your Lordship addressed on the 14th and 15th instant to Lord Augustus Loftus and to Earl Cowley, containing proposals to Austria and France with regard to the settlement of the Italian question.

His Excellency desired me to thank your Lordship for this communication, observing that he could say but little on the subject of these proposals until he had seen the Prince Regent.

His Excellency gave me to understand that Prussia would give due consideration to the existing state of things in the Duchies, and to the circumstances of Northern Italy: but that, as an abstract principle, she is opposed to an appeal to the voices of the population to elect or depose a Sovereign; neither could she admit the principle that military interventions should in no case take place.

Lord J. Russell. BLOOMFIELD.

No. 33.—M. Thouvenel to M. de Moustier.—(Communicated to Lord J. Russell by Count Persigny, February 3.)

M. le Marquis, *Paris, le 30 Janvier, 1860.*

M. l'Ambassadeur d'Angleterre a été chargé de me communiquer une dépêche dans laquelle le Principal Secrétaire d'Etat pour les Affaires Etrangères s'est proposé d'indiquer les bases sur lesquelles, dans l'opinion du Gouvernement Anglais, un accord pourrait s'établir entre les Puissances concernant les affaires d'Italie. Une communication semblable a dû être faite au Gouvernement Autrichien par Lord Loftus.

J'ai l'honneur de vous envoyer ci-joint copie de ces deux pièces; elles me dispenseront d'entrer dans aucun détail sur la nature et la portée des propositions qu'elles renferment. Nous avons cru devoir les examiner avec le plus grand soin, et vous verrez, par la copie également ci-jointe de la dépêche que j'adresse à l'Ambassadeur de l'Empereur à Londres, la mesure dans laquelle le Gouvernement de l'Empereur est disposé à accueillir ces ouvertures. Vous remar-

querez surtout, M. le Ministre, les réserves que nous avons cru devoir formuler touchant le quatrième point relatif au mode à suivre pour le règlement de la question de territoire. Fidèles aux sentiments de loyauté que nous n'avons cessé de porter dans l'exécution de nos engagements avec l'Autriche, nous avons regardé comme un devoir d'ajourner notre réponse jusqu'à ce que nous ayons pu nous expliquer avec cette Puissance sur la situation que nous créent des circonstances impérieuses; nous voulons, en effet, avant tout, mettre au-dessus de toute suspicion les intentions et les vues dont notre politique s'est constamment inspirée en Italie depuis la signature des stipulations de Villafranca et de Zurich. J'ai la confiance que le Cabinet de Vienne, parfaitement éclairé d'ailleurs sur la sincérité et la constance de nos efforts pour amener la réalisation des prévisions du Traité de Zurich, appréciera pleinement le langage que nous tenons au Gouvernement Anglais, et c'est dans cette persuasion que je vous invite à vouloir bien donner à M. le Comte Rechberg lecture de ma dépêche à M. de Persigny, et à lui en laisser copie.

M. de Moustier. THOUVENEL.

No. 34.—M. Thouvenel to M. de Moustier.—(Communicated to Lord J. Russell by Count Persigny, February 3.)

M. LE MARQUIS, *Paris, le 31 Janvier*, 1860.

MA dépêche précédente vous a fait connaître les propositions dont le Gouvernement de Sa Majesté Britannique a pris l'initiative au sujet de l'Italie, ainsi que l'accueil qu'elles ont reçu de moi conformément aux ordres de l'Empereur. Nous avons le ferme espoir que le Cabinet de Vienne appréciera le caractère de nos réponses, et les sentiments de franchise et de loyauté qui nous les ont inspirées.

En prenant possession de mes fonctions dans les conjonctures actuelles, je me trouve en présence d'une situation difficile dont la prolongation offrirait les plus graves dangers pour l'Europe, et j'ai dû me préoccuper, avant tout, des moyens d'y mettre un terme. Des entretiens que j'ai eus avec mon prédécesseur, et de l'étude attentive des documents à laquelle j'ai apporté un esprit dégagé de toute prévention, il est résulté pour moi une conviction que mon devoir était de ne pas dissimuler à l'Empereur, et Sa Majesté m'a autorisé à m'en ouvrir sans détour avec vous.

Sans remonter plus loin dans le passé je prends les faits à la date même de la signature des Préliminaires de Villafranca.

Au lendemain de cet événement mémorable, l'Empereur, encore tout plein, si j'ose ainsi parler, des souvenirs de son entrevue avec son auguste adversaire de la veille, caractérisait, dans une proclamation adressée à son armée, le résultat qu'il croyait avoir obtenu,

sans pousser plus loin la guerre, grâce à la modération des deux Souverains :

"Les bases de la Paix sont arrêtées avec l'Empereur d'Autriche," disait Sa Majesté, le 13 Juillet dernier; "le but principal de la guerre est atteint,—l'Italie va devenir pour la première fois une nation. . . La Vénétie reste, il est vrai, sous le sceptre de l'Autriche ; elle sera néanmoins une province Italienne. Les Gouvernements restés en dehors du mouvement ou rappelés dans leurs possessions comprendront la nécessité de réformes salutaires. . . . L'Italie, désormais maîtresse de ses destinées, n'aura plus qu'à s'en prendre à elle-même si elle ne progresse pas régulièrement dans l'ordre et la liberté."

En prononçant ces paroles, M. le Marquis, l'Empereur nourrissait l'espoir que l'organisation nouvelle de l'Italie pourrait se concilier avec la restauration, sous certaines conditions déterminées, des anciennes dynasties. Sa Majesté aimait surtout à penser que les Chefs de ces dynasties iraient eux-mêmes au-devant des difficultés qu'il leur fallait surmonter pour ramener les dispositions de leurs sujets, et qu'un temps précieux ne serait point perdu. Au contraire, que s'est-il passé ? Les anciens Gouvernements demeurés en possession de leurs Etats n'ont opéré aucune des réformes que l'Empereur avait en vue. Le Saint Siége, tout en se montrant plus disposé à déférer sur ce point à nos conseils, a cru devoir ajourner indéfiniment la réalisation de ses promesses. Le Gouvernement Autrichien a gardé le silence sur les intentions généreuses qui avaient été manifestées à l'Empereur à l'égard du Gouvernement de la Vénétie. Le Duc de Modène a paru vouloir rentrer de force dans ses Etats, et le Grand Duc de Toscane, avant de prendre une résolution que les intérêts de sa Maison le pressaient d'adopter sans retard, a attendu qu'une assemblée se fût réunie pour proclamer sa déchéance. La situation générale, en un mot, se trouvait déjà gravement compromise lorsque les négociations pour la signature du Traité de Paix se sont ouvertes à Zurich.

Le Gouvernement de l'Empereur, néanmoins, fidèle à ses promesses, a hautement admis la réserve des droits dynastiques en Toscane, à Modène, et même à Parme, bien que rien n'eût été convenu à Villafranca en faveur du Duc Robert.

Pendant que ce gage était donné par le Gouvernement de l'Empereur dans les stipulations de Zurich, deux Envoyés, M. le Comte de Reiset d'abord, et un peu plus tard M. le Prince Poniatowski, que ses relations anciennes en Toscane accréditaient particulièrement pour cette mission, étaient chargés de se rendre dans l'Italie Centrale afin d'y porter des conseils et d'y prodiguer des exhortations. L'impression que leur langage et leurs démarches ont causée, suffit assurément pour en démontrer la sincérité. J'en appelle

sans crainte sur ce point aux informations que la Cour de Vienne a pu recueillir. Pénétré du vif désir, non-seulement de remplir ses promesses, mais de travailler efficacement au succès d'une combinaison qui lui semblait propre à assurer la tranquillité et l'indépendance de l'Italie, le Gouvernement de l'Empereur n'a pas hésité à compromettre sa popularité. Le langage qu'il tenait à la même époque à Turin était empreint d'une égale fermeté. Tous ses efforts ont échoué devant la résistance des populations.

Après avoir ainsi multiplié ses démarches pour amener la réconciliation des Princes avec leurs peuples, le Gouvernement de Sa Majesté, en présence de l'inefficacité de ses diverses tentatives, et voyant la combinaison qu'il avait promis de seconder plus vivement repoussée en raison même de son insistance à la faire accepter, avait pensé que l'autorité de l'Europe assemblée aurait réalisé l'objet qu'il se proposait. Voulant, avant toute chose, accomplir ses engagements, et désespérant de triompher, sans le concours des autres Cabinets, de l'opposition qu'il rencontrait dans l'Italie Centrale, il avait donc provoqué la réunion d'un Congrès. Mieux qu'aucune autre Puissance, l'Autriche connaît la persévérance avec laquelle nous avons poursuivi ce plan de conduite. Elle sait aussi combien nous avons regretté les objections que la convocation des Plénipotentiaires a soulevées quand déjà ils étaient sur le point de se réunir.

Le Gouvernement de l'Empereur, M. le Marquis, s'est ainsi trouvé en face de l'hypothèse que la Cour de Vienne savait depuis longtemps que nous ne pouvions ni ne voulions aborder, celle de l'emploi de la force pour imposer une solution.

Je ne dirai rien qui étonne l'Autriche, encore moins voudrais-je laisser échapper un seul mot susceptible de la blesser ; mais cette Puissance pourrait-elle être chargée de procéder elle-même à la restauration des dynasties dépossédées, sans que le résultat de la guerre

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sentiment s'est fait jour dans une partie de l'Europe avec une force qu'il n'y a pas à méconnaître. De là une situation que ni le Gouvernement de l'Empereur, ni l'Autriche, à raison des conséquences qui découleraient d'une appréciation erronée des dispositions de l'opinion publique, ne sauraient ne pas prendre en très sérieuse considération.

A Dieu ne plaise, M. le Marquis, que nous ne soyions pas aussi convaincus que personne de la sainteté des engagements. Mais la France s'est-elle obligée à rétablir à tout prix, et par tous les moyens possibles, sur leurs trônes les dynasties de Parme, de Modène, et de Toscane? Les stipulations de Villafranca, ni celles de Zurich, n'ont assurément une telle portée. La France n'a promis que son concours moral, concours dont il lui faut bien après 6 mois d'efforts constater l'impuissance. Son regret, que le Cabinet de Vienne n'en doute point, est sincère et profond; le Gouvernement de l'Empereur l'exprime sans hésitation; mais force lui est de compter avec des difficultés insurmontables et dont le Gouvernement Autrichien lui-même, comme l'atteste une communication récente de M. le Prince de Metternich, renonce à espérer la solution par l'influence d'un Congrès.

Faut-il s'arrêter indéfiniment devant un tel obstacle? Faut-il fermer les yeux sur les dangers que cet état d'incertitude fait peser sur l'Europe entière? Faut-il laisser tout au hasard, au risque de voir des sentiments purement révolutionnaires se substituer forcément à des sentiments que nous ne demandons pas à l'Autriche d'approuver, mais qu'elle ne saurait demander non plus à un Gouvernement sorti du suffrage populaire de condamner d'une manière absolue? A ce jeu périlleux, les idées monarchiques, qui n'ont cessé jusqu'ici de caractériser le mouvement Italien, ferait bientôt place à des idées d'une autre nature. Les populations finiraient par s'habituer à un régime auquel il ne manquerait plus que son vrai nom, régime qui trouverait comme une raison d'être dans des traditions anciennes dont la trace n'est pas encore effacée dans certaines parties de la Péninsule.

Je ne suppose pas, M. le Marquis, que ces considérations ne se soient jamais présentées à l'esprit de l'Empereur François Joseph, et elles ne devaient pas échapper à celui de l'Empereur Napoléon.

Du moment où l'emploi d'une force étrangère est exclu de toutes les combinaisons, comment donc sortir de cette impasse? La conviction profonde du Gouvernement de l'Empereur est que la dernière des 4 propositions Anglaises en indique le moyen. Il sait que cette conviction, fût-elle partagée par la Cour de Vienne, elle ne saurait le proclamer. Ce qu'il espère de sa sagesse c'est que, si la différence des principes peut et quelquefois doit conduire à des appréciations différentes, il n'est pas nécessaire qu'il en résulte,

lorsque l'honneur est sauf des deux parts, des conflits désastreux, et si éloignés des intentions de la France et de l'Autriche.

Ecartons pour un instant les incidents, et allons droit au point de fait qui domine la situation. L'Italie pendant des siècles a été un champ ouvert à une lutte d'influence entre la France et l'Autriche. C'est ce champ qu'il faut à jamais fermer. Si l'une des deux Puissances anciennement rivales faisait un sacrifice qui dût profiter directement à l'autre, si la domination de l'Italie, changeant seulement de mains, devait encore nous appartenir pour un temps, la question se présenterait sous un aspect qui rendrait toute discussion oiseuse et stérile. Ce n'est pas ainsi que le débat est posé. La France ne cherche pas à se substituer à l'Autriche en Italie ; c'est l'Italie elle-même qu'il s'agit de constituer comme un intermédiaire, comme une sorte de terrain désormais impénétrable à l'action tour à tour prédominante et toujours précaire de l'une ou l'autre des deux Puissances.

En dehors de cette grande solution, qui, je ne fais aucune difficulté d'en convenir, n'est pas, sinon quant à son esprit, du moins quant à sa modalité, celle qui avait été prévue à Villafranca et à Zurich, j'en cherche vainement une autre qui ne contienne pas les éléments de nouveaux orages pour l'avenir. Que cette solution, au contraire, s'accomplisse, je ne dirai pas avec l'assentiment du Cabinet de Vienne, assentiment que le Gouvernement de l'Empereur ne cherche pas à obtenir, mais sans son opposition formelle, et l'œil le plus pénétrant ne saurait désormais découvrir une cause de conflit ultérieur entre la France et l'Autriche. Il n'est plus en effet un seul intérêt considérable en Europe au sujet duquel il ne leur soit facile de s'entendre. A cette identité d'intérêts, je suis autorisé par l'Empereur à le proclamer, il se joindrait de sa part le sentiment

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quels la Cour de Vienne a été partie au même titre que nous, le Gouvernement de l'Empereur ne peut considérer la possession des Légations par le Saint Siége que sous un point de vue temporel, il n'en déplore pas moins amèrement que la Cour de Rome, sourde à ses avis, et l'on peut même dire avec plus de raison, indifférente aux conseils unanimes de l'Europe depuis 1831, comme à la leçon des événements, ait laissé les choses arriver au point où elles sont, et que nous nous prêterions encore, à la seule condition que le principe de non-intervention de la part des Puissances étrangères fût maintenu à tous les tempéraments et à toutes les combinaisons qui seraient jugés propres à préparer une solution moins radicale que le démembrement.

Vous voudrez bien, M. le Marquis, donner lecture de cette dépêche à M. le Comte de Rechberg, et lui en remettre copie s'il vous en exprime le désir. Agréez, &c.

M. de Moustier. THOUVENEL.

No. 35.—*Count Rechberg to Count Apponyi.*—(*Communicated to Lord J. Russell by Count Apponyi, February* 4.)

Vienne, le 30 *Janvier*, 1860.

Par le rapport que votre Excellence m'a fait l'honneur de m'adresser en date du 19 courant, elle m'a rendu compte d'une conversation qu'elle avait eue avec Lord J. Russell le 16.

A cette occasion, M. le Comte, le Principal Secrétaire d'Etat a bien voulu vous faire part des propositions qu'il allait adresser aux Cours d'Autriche et de France dans le but d'amener la pacification de l'Italie Centrale.

Lord J. Russell a donné suite à l'intention qu'il avait manifestée à votre Excellence. Vous en trouverez la preuve, M. le Comte, dans la dépêche ci-jointe en copie, dont Lord A. Loftus m'a donné communication.

Nous avons examiné cette pièce avec l'attention sérieuse que nous sommes habitués à vouer à toute communication que le Cabinet de Sa Majesté Britannique veut bien nous adresser. Voici les conclusions auxquelles nous a conduit cet examen.

Lord J. Russell propose:

1. Que l'Autriche et la France conviennent ensemble de ne pas intervenir dorénavant par la force dans les affaires intérieures de l'Italie, à moins d'y être autorisées par l'assentiment unanime des 5 Grandes Puissances.

2. Que par suite de cet accord l'Empereur des Français se concerte avec Sa Sainteté sur l'évacuation de Rome par les troupes Françaises. L'époque et le mode d'évacuation seraient déterminés de manière à offrir au Gouvernement Pontifical l'opportunité suffisante de pourvoir à la garnison de Rome par des troupes Pontificales,

et de prendre toutes les précautions contre le désordre et les attentats. Des arrangements seraient faits pour l'évacuation du Nord de l'Italie par les troupes Françaises à une époque convenable.

8. Le Gouvernement intérieur de la Vénétie ne formerait en aucune façon le sujet de négociations entre les Puissances Européennes.

Ad 1. Nous commencerons par établir qu'à l'heure qu'il est il n'y a dans toute la Péninsule Italienne pas un seul soldat Autrichien en dehors des limites de la Monarchie. Il nous semble, par conséquent, qu'en ce moment-ci, tout Conseil tendant à nous recommander le système de non-intervention est dénué de valeur pratique. S'agit-il au contraire de subordonner à tout jamais aux décisions préalables d'un Aréopage Européen l'exercice éventuel du droit de prêter assistance à un Souverain indépendant qui la réclamerait? En ce cas la proposition toucherait non-seulement à des principes à l'égard desquels nous avons été bien souvent dans le cas de manifester notre point de vue, mais elle s'élèverait aussi aux proportions d'une question Européenne que nous ne saurions résoudre isolément.

Ad 2. Les arrangements à faire entre la France et le Souverain Pontife d'un côté, et la Sardaigne de l'autre, pour obtenir le rappel des troupes Françaises tant de la Lombardie que des Etats Pontificaux, ne nous regardent pas directement. Nous abondons du reste dans le sens de Lord John Russell, lorsqu'il émet l'opinion que l'évacuation éventuelle des Etats Pontificaux devrait avoir lieu dans des conditions de nature à laisser au Saint Père le temps et la latitude nécessaires pour pourvoir efficacement à l'organisation d'une force armée suffisante pour maintenir l'ordre et la sécurité publique.

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cette solution était trop contraire aux principes que nous professons et trop attentatoire aux droits de succession et de réversion garantis à l'Autriche par des Traités, auxquels la Grande Bretagne a été Partie Contractante, pour demander notre adhésion à son plan de pacification.

En effet, la solution dont nous avons arrêté les bases d'un commun accord avec la France, repose sur des points de départ bien différents. Les éléments de cette solution se trouvent consignés dans les Préliminaires de Villafranca, qui ont reçu une nouvelle consécration par le Traité de Zurich et les communications échangées depuis entre les deux Cours. L'Empereur des Français n'a cessé de nous assurer qu'il entendait rester fidèle à ses engagements. En présence de ces assurances nous n'avons pas de peine à pressentir l'appréciation dont les propositions de Lord John Russell ont été l'objet de la part du Cabinet de Paris.

J'invite votre Excellence à s'expliquer envers Lord J. Russell dans le sens de cette dépêche, dont elle est autorisée à lui donner lecture et copie. Recevez, &c.

Le Comte Apponyi. RECHBERG.

No. 36.—Count Rechberg to Count Apponyi.—(Communicated to Lord J. Russell by Count Apponyi, February 4.)

Vienne, le 30 Janvier, 1860.

Dans la dépêche de Lord J. Russell dont copie est jointe à ma dépêche de ce jour, le Principal Secrétaire d'Etat a jugé à propos de citer textuellement un rapport de Lord A. Loftus rendant compte d'une conversation qu'il avait eue avec moi sur la situation d'Italie Centrale.

Lord J. Russell admet que les paroles que Lord A. Loftus me prête en cette occasion, si elles ne sont peut-être pas littéralement exactes, expriment non moins avec précision l'opinion et les intentions du Gouvernement Autrichien. Attachant du prix à ne laisser subsister aucun doute à ce sujet, je reproduirai ici ce que j'ai dit à mon interlocuteur:—"L'Autriche," ai-je fait observer à Lord A. Loftus, "s'est dans les temps passés imposé d'immenses sacrifices dans l'intérêt du maintien et du rétablissement de l'ordre et de la tranquillité dans les différents Etats de l'Italie. Malgré l'étendue de ces sacrifices le résultat final n'a pas répondu à nos efforts. C'est là pour nous un puissant motif pour ne pas désirer de continuer à l'avenir le même système."

Je prie votre Excellence de donner lecture et copie de cette dépêche à M. le Principal Secrétaire d'Etat.

Recevez, &c.

Le Comte Apponyi. RECHBERG.

No. 37.—Lord J. Russell to Earl Cowley.

MY LORD, *Foreign Office, February 4, 1860.*

I TRANSMIT to your Lordship copies of two despatches given me this day by Count Apponyi, being the answers of the Austrian Minister to my despatch to Lord A. Loftus of the 14th instant.

Count Apponyi in giving me copies of these despatches, assured me that Austria had no intention of attacking any other Power; that she occupied only her own possessions; that she desired only to be left undisturbed; and that she heartily desired to act in concert with Great Britain for the preservation of peace.

I am, &c.

Earl Cowley. J. RUSSELL.

No. 38.—Earl Cowley to Lord J. Russell.—(Received February 5.)

MY LORD, *Paris, February 4, 1860.*

As your Lordship has by this time in your hands the copies of the despatches which M. Thouvenel has addressed to Vienna, with reference to the proposals made by Her Majesty's Government for the settlement of Central Italy, it is hardly necessary that I should remark that Count Rechberg was in error when he stated to Lord Augustus Loftus that the French Government had declined to accede to the fourth point, in consequence of the engagements contracted by them at Zurich.

Nevertheless I have thought it right to call M. Thouvenel's attention to Count Rechberg's assertion. M. Thouvenel said that he was at a loss to conceive how this error should have arisen, as he had only informed Prince Metternich that he had declined giving any answer on this point until he had stated his opinion previously to the Cabinet of Vienna; and that as, under these circumstances, he had been unwilling for the moment to discuss it with me, he

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decide whether they shall be set aside, or extended to the whole of the proposed kingdom.

This notice was published to do away with any ambiguity which might be thought to exist in the Decree inclosed in my above-mentioned despatch, and to show that it was not the intention of the Government to abolish the Tuscan organic laws, of which the country is justly proud, in favour of the less liberal code of Piedmont.

Considerable jealousy has been always felt here on this subject; and the somewhat sweeping adoption in Parma and Modena of Sardinian laws has been criticised in Tuscany as too hasty; and there has been no disposition to follow the example of those countries, but rather to wait until the union of Central Italy to Piedmont being completed, there would be leisure to examine and consolidate into one code, applicable to the whole kingdom, whatever was found most advantageous in the various systems which prevail in the different States of which it would be composed. I have, &c.

Lord J. Russell. EDWIN CORBETT.

(*Inclosure.*)—*Extract from the "Monitore Toscano" of January 25,* (Translation.) 1860.

But few words are necessary to remove any misapprehension respecting the intention which dictated the reservation that is to be found in the Decree relative to the promulgation of the Sardinian Constitution in Tuscany. In making this reservation, the Tuscan Government had no intention to dictate conditions, nor in any manner to interfere with the supreme jurisdiction of the National Parliament. But, with the view of avoiding all responsibility towards the country, they desired to prevent the impression being created that on the day on which the Sardinian Constitution came into force, it would be considered as virtually abolishing the fundamental laws (sanctioned by the Tuscan Constitution) relative to freedom of commerce and manufactures, the law of mortmain, and other legislative provisions, thanks to which the great principles of civilization have so long prevailed amongst us, as regards the past, and are still those which we look forward to for the future. In those cases in which provisions of a similar character exist in the general laws of the kingdom, the reservation has no application; where the contrary is the case, it will be the duty of the National Parliament to decide whether the provisions, respecting which the reserve was made, shall cease altogether to have effect amongst us, or whether they shall be generalized for the welfare of the whole community.

No. 40.—Lord J. Russell to Mr. Corbett.

SIR, *Foreign Office, February* 6, 1860.

HER Majesty's Government have proposed to the Government of the Emperor of the French that Great Britain and France should invite the King of Sardinia to agree not to send troops into Central Italy until its several States and Provinces shall, by a new vote of their Assemblies, after a new election, have solemnly declared their wishes as to their future destiny. Should that decision be in favour of annexation to Sardinia, Great Britain and France will no longer require that Sardinian troops should not enter those States and Provinces.

This appears to Her Majesty's Government the best way of dispelling the charges that terrorism prevailed in the first elections, and that the vote of annexation did not truly represent the national wish.

Any reluctance to adopt this test would be construed into a consciousness that these charges were well founded.

The British Government would not pretend to prescribe any particular franchise or mode of election.

We have never adopted universal suffrage in this country, and we do not recommend it elsewhere.

The Provisional Government of Tuscany will ascertain the views of the French Government on this point from its own organs at Paris or in Italy.

Should the vote of annexation be repeated, the King of Sardinia would probably at once assume authority over Tuscany, as the King of that State.

This despatch is intended to guide your language, but not to be read to the Marquis Ridolfi. I am, &c.

E. Corbett, Esq. J. RUSSELL.

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We have chiefly in view an election, not carried by intimidation, nor partaking of the excitement of the first outburst of the national feeling for independence. I am, &c.

Sir J. Hudson. J. RUSSELL.

No. 42.—Lord Bloomfield to Lord J. Russell.—(Rec. February 6.)

MY LORD, *Berlin, February 4, 1860.*

I SAW Baron Schleinitz this morning, when our conversation naturally turned on the propositions which Her Majesty's Government had lately made to France and Austria with the object of effecting a peaceful solution of the affairs of Italy, and I found his Excellency more disposed to take a practical view of the question than at our last interview.

He informed me that Baron Belcastel, the French Chargé d'Affaires, had read to him yesterday, copies of communications which had been addressed by his Government to the Marquis de Moustier on the Italian question, in which M. de Thouvenel appears to have said that France had only promised her moral support in favour of the late Sovereigns of Central Italy, and had fulfilled these promises by sending two Missions to the Duchies; that those Sovereigns had done nothing to concilitate their revolted subjects, and that, in the present state of feeling in Italy, it would be impossible to effect a restoration of the fallen dynasties without force, a means to which the Emperor would not have recourse.

Consequently, it was to be considered whether an appeal to the populations was not the only practical mode of fixing the future destiny of the Italian Duchies, and whether the propositions of the British Government were not well adapted to meet the existing state of things.

Baron Schleinitz requested Baron Belcastel to leave the despatches with him for communication to the Prince Regent, in order that he might be enabled to render to His Royal Highness an exact report of the communication; and I may add that his Excellency seemed favourably impressed with the language in which these despatches were written, and considered them calculated to save as much as possible the susceptibilities of Austria: but he was yet quite uninformed as to the course that would be adopted by the Cabinet of Vienna with respect to the communication. He appeared, however, convinced that Austria will not make any attempt to impede by force the march of events in Italy, though she may protest against the incorporation of the Duchies into Sardinia; but his Excellency said that a very serious matter to be considered at this instant was the state of Venetia, and the movement that might be expected there when an appeal is made to the population of the Duchies respecting their future destiny. If Sardinia were mixed up

in this movement, observed his Excellency, the result might be dangerous to the peace of Europe, and a bloody conflict arise in which France might again find herself in collision with Austria.

I replied that your Lordship had urged on the consideration of the Sardinian Government the absolute necessity of taking no steps in the direction of annexation before the election of fresh Assemblies, and of discouraging all attempts at disturbance in Venetia, or in those territories where the authority of the rightful Sovereigns was still recognized; and that he might be assured that the great object which Her Majesty's Government had in view was to arrive at a settlement of the affairs of Italy without bloodshed, and I said if this were the result of the efforts now making by Her Majesty's Government, they would be justified in expecting that Prussia would not withhold her recognition of the new order of things that might be established in Central Italy.

Baron Schleinitz was disposed to give full credit to Her Majesty's Government for their efforts, but he could not say what the Prince Regent would decide on doing under the new arrangements that might be effected; he gave me to understand that the course to be pursued by Prussia must depend on future events, and said nothing to lead to a supposition that if Austria were left undisturbed in the possession of Venetia, Prussia would ultimately withhold her recognition of an accession of territory to the Crown of Sardinia.

Before closing this despatch, it is right that I should observe to your Lordship that Baron Schleinitz continues as unwilling to admit, as he was at my last interview, that the populations, when called upon to pronounce themselves as to their future destiny, will be fairly heard, though in the present conjuncture of affairs he scarcely looks to the possibility of restoring the Dukes otherwise than by force. His Excellency's opinion may be that the arrange-

both with regard to himself personally, which it contains, and also with respect to the line of conduct which it suggests under the present posture of affairs in Italy. He entirely agreed in opinion with your Lordship that the immediate and pressing interest of Italy is the consolidation of the general peace of Europe.

I have, &c.

Lord J. Russell. JAMES HUDSON.

No. 44.—Sir J. Hudson to Lord J. Russell.—(Rec. February 8.)

(Extract.) *Turin, February 3, 1860.*

YOUR Lordship's messenger, Captain Webster, arrived here this morning, bringing me your Lordship's despatch of the 31st ultimo, inclosing a copy of the despatch which your Lordship addressed on the 15th ultimo to Her Majesty's Ambassador at Paris, conveying propositions calculated, in the opinion of Her Majesty's Government, to secure the prosperity of Italy on solid and durable bases, and to prevent a renewal of the late war.

On the 31st ultimo Baron de Talleyrand, the French Minister at this Court, communicated to me a despatch which he had received from M. de Thouvenel, covering a copy of your Lordship's despatch of the 15th ultimo (which he had received from his Government the preceding day), and which he had communicated to Count Cavour.

I, this afternoon, called on Count Cavour. His Excellency requested me to express to Her Majesty's Government the warmest acknowledgments of the Sardinian Cabinet for the propositions laid down by your Lordship, which he believes to be well calculated to ensure the end which the Governments of England and France have in view with regard to the future welfare of Italy.

His Excellency has no hesitation whatever in accepting them, on his own part and on that of his colleagues; but previously to returning a formal reply to your Lordship, which he purposes to do through the Sardinian Minister in London, he would desire to confer with the Chevalier Farini and Baron Ricasoli, and I have reason to believe that those gentlemen will come to Turin for that purpose on Sunday next.

Count Cavour added, that the Sardinian Government had never entertained the idea of sending Sardinian troops into Central Italy, and, provided there was no armed intervention on the part of other States, they had not the slighest intention of doing so; they wished the people of the Provinces of Central Italy to give a free and unbiassed opinion as to their future government and ruler, for upon that basis alone could any permanent settlement be effected.

His Excellency desired me to inform your Lordship that the Sardinian Government has used, and is using, its best exertions to preserve the peace in Umbria and the Marches; and, with regard to

Venetia, he firmly believes that no outbreak is likely to occur there.

Lord J. Russell. JAMES HUDSON.

No. 45.—Sir J. Hudson to Lord J. Russell.—(Rec. February 8.)

(Extract.) *Turin, February 3, 1860.*

A DEPUTATION from the Tyrol waited upon Count Cavour a few days ago in order to urge that Minister to listen to their complaints, and to explain the view which they take of the position of affairs in their country. Count Cavour declined to enter into any discussion with them upon those points.

With regard to the Marches and Umbria, it is also within my knowledge that Count Cavour, Baron Ricasoli, and the Chevalier Farini, have used, and are using, every means in their power to dissuade the people of those Provinces from rising against the Papal Government, and I have reason to believe that their counsel will be listened to.

Lord J. Russell. JAMES HUDSON.

No. 46.—Mr. Corbett to Lord J. Russell.—(Rec. February 8.)

MY LORD, *Florence, February 2, 1860.*

I HAVE the honour to inclose to your Lordship the copy of a despatch from the British Vice-Consul at Ancona, reporting the state of public feeling in that city, and that many arrests have been made by the authorities.

Mr. Gaggiotti also mentions the arrival of 70 Austrian recruits for the Papal military service; and he states that the deepest anxiety and consternation prevail throughout the country.

I have, &c.

Lord J. Russell EDWIN CORBETT

district since the commencement of the late Italian war (of all classes), is reckoned to be about 2,000.

At Tesi, 12 miles from this, the Pontifical arms have all been effaced by the people.

The deepest anxiety and consternation prevail throughout the country. I have, &c.

E. Corbett, Esq. G. GAGGIOTTI.

No. 47.—Earl Cowley to Lord J. Russell.—(Rec. February 8.)

(Extract.) *Paris, February 6, 1860.*

It was only on Saturday that M. de Moustier was enabled to communicate to Count Rechberg M. Thouvenel's despatch of the 31st instant. M. de Moustier states that he had a conference of several hours with Count Rechberg, but that it had no immediate result, as the Austrian Minister could give nothing corresponding to an answer until he should have taken the Emperor of Austria's orders. Count Rechberg expressed a laudable wish that whatever solution the question might find, it should not lead to any estrangement between the French and Austrian Cabinets.

Lord J. Russell. COWLEY.

No. 48.—Mr. Corbett to Lord J. Russell.—(Received February 9.)

My Lord, *Florence, February 4, 1860.*

It having been asserted in some quarters that the Tuscan Government are afraid to keep Tuscan troops in the Grand Duchy, from an apprehension of their making some demonstration in favour of a restoration, it may not be uninteresting to your Lordship to know that there are probably not less than 10,000 troops on the Tuscan territory at this moment, and that no doubts are entertained as to their fidelity. I have, &c.

Lord J. Russell. EDWIN CORBETT.

No. 49.—M. Thouvenel to Count Persigny.—(Communicated to Lord J. Russell by Count Persigny, February 10.)

M. le Comte, *Paris, le 8 Février, 1860.*

Vous connaissez la lettre encyclique que le Pape a adressée à tous les Patriarches, Evêques, et Primats de la Catholicité, et dans laquelle Sa Sainteté, exposant à un point de vue exclusif l'origine et la nature des difficultés que présente la situation actuelle des Romagnes, exhorte les pasteurs et les fidèles dans le monde entier à concourir de tous les efforts de leur zèle au maintien et à la défense du droit du Saint Siége sur ces provinces.

Ne doutant pas que ce document n'ait attiré la sérieuse attention

du Gouvernement Anglais, je crois devoir vous mettre en mesure de faire connaître comment le Gouvernement de Sa Majesté l'a lui-même apprécié.

Je ne m'arrêterai pas, pour le moment, à relever les reproches plus ou moins articulés qui sont dirigés par l'encyclique contre la ligne de conduite suivie par l'Empereur, à l'égard du Saint Siége, dans les difficiles conjonctures de ces derniers temps. L'histoire, dans son impartialité, dira un jour à qui doit appartenir la responsabilité des événements, ou du Souverain dont les efforts ont constamment tendu à les prévenir, ou de ceux qui, se refusant à toute concession et à toute réforme, et se renfermant dans une inexplicable inaction, ont laissé l'état des choses empirer jusqu'à ce point où le mal devient souvent irrémédiable.

Ce qui a surtout frappé d'une façon pénible le Gouvernement de Sa Majesté, c'est l'oubli que, dans une circonstance aussi importante, la Cour de Rome a fait des usages diplomatiques en transportant directement sur le terrain de la religion une question qui appartient avant tout à l'ordre temporel. Nous voyons avec un sentiment de regret aussi sincère que profond le Saint Père faire appel à la conscience du clergé et exciter l'ardeur des fidèles à l'occasion d'une affaire dont la discussion ne saurait utilement avoir lieu que de Gouvernement à Gouvernement.

Il ne s'agit point, en effet, de porter la plus légère atteinte à la puissance spirituelle du Souverain Pontife, ni à l'indépendance dont elle a besoin pour s'exercer dans les limites de ses droits. La question des Romagnes aujourd'hui comme à d'autres époques, est née de circonstances politiques; c'est également sous son aspect politique qu'il convient de l'examiner, en recherchant les meilleurs moyens de satisfaire à des nécessités en présence desquelles le Gouvernement



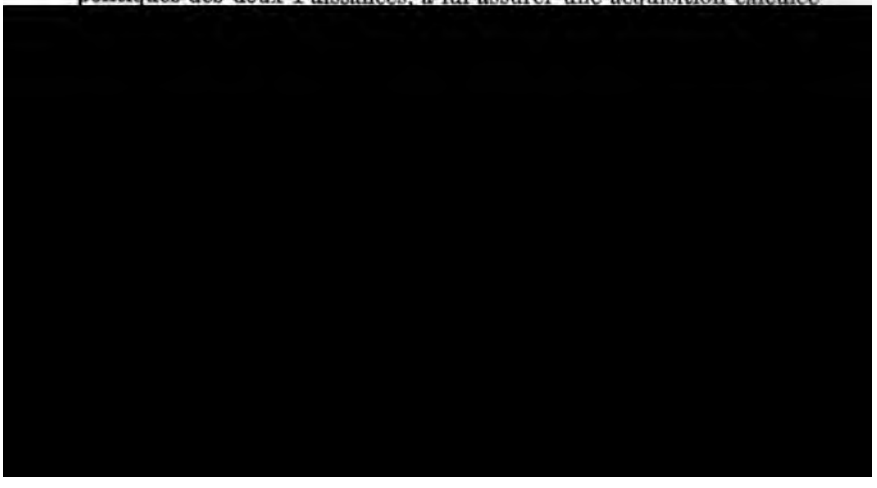
théocratiques, cette confusion était naturelle et possible ; elle était sans peine acceptée par tout le monde parce qu'elle répondait à l'état des esprits et des consciences. C'est ainsi qu'elle fut dans l'origine un des éléments de la puissance de la Papauté et qu'elle concourut à la formation et au développement de sa souveraineté territoriale. Cependant si l'on voulait interroger l'histoire avec attention, on verrait bien que ce ne fut pas uniquement en invoquant des motifs empruntés à sa mission divine, et en réclamant en quelque sorte au nom du Ciel que la Papauté, tantôt avec l'appui des populations elles-mêmes, tantôt avec le secours de Souverains étrangers, parvint à se mettre en possession d'une partie de l'Italie. On reconnaîtrait en même temps, il faut le proclamer à l'honneur du Saint Siége, que les Papes trouvèrent dans leur sagesse, leurs lumières, leur amour de l'ordre et de la justice, en un mot, dans le gouvernement meilleur qu'ils offraient aux peuples dans ces temps de violences et d'anarchie, un des éléments essentiels de leur autorité politique.

Je n'insisterai pas sur ce point de vue, craignant si je m'y arrêtais davantage de laisser croire que j'ai voulu chercher dans le contraste une allusion, et emprunter au passé une leçon applicable au temps présent ; rien n'est plus loin de ma pensée. Il me sera toutefois permis de dire que de nos jours, par suite d'un progrès que le Gouvernement de l'Empereur ne saurait considérer autrement que comme un bienfait réciproque irrévocablement acquis aux sociétés modernes, la séparation s'est accomplie entre les deux domaines de l'ordre religieux et l'ordre politique et civil. Le Saint Siége ne s'est donc pas moins mis en désaccord avec l'esprit général de l'époque qu'avec les règles internationales, en faisant appel aux consciences, au nom de la foi, pour un intérêt qui, à le bien prendre, est simplement temporel.

J'ajoute que cette tentative est loin d'avoir pour elle l'autorité et les précédents de l'histoire. En effet, ce n'est pas la première fois que, dans les temps voisins de nous, la situation des Romagnes et leur état de possession ont été l'objet d'un débat politique. En 1797, à la suite d'événements dont il lui fallait bien, comme Souverain, accepter la responsabilité, le Pape cédait ces provinces à la France par le Traité de Tolentino, en même temps qu'il renonçait aux anciens droits du Saint Siége sur le territoire d'Avignon ; et si vif que fût pour lui le regret d'une diminution de ses domaines, Pie VI croyait sans doute pouvoir souscrire à cette Convention sans manquer à ses devoirs comme Souverain Pontife et gardien de la foi. Les deux Parties Contractantes ne furent pas seules à ne voir dans cette transaction qu'un fait temporel, nullement attentatoire à la religion. Les Préliminaires signés à Léoben, deux mois plus tard, entre la France et l'Autriche, attestent que la Cour de Vienne ne pensait pas autrement que la France à ce sujet. Après avoir entretenu

pendant la guerre des relations étroites avec la Cour de Rome, elle se prêta néanmoins à une combinaison qui, lui attribuant une partie des Etats de Venise, indemnisait cette République en lui transférant la possession des 3 Légations de la Romagne, de Ferrare, et de Bologne. Les Traités de Campo Formio et de Lunéville vinrent encore consacrer, sous une autre forme, la séparation de ces provinces, et dans les divers arrangements qui furent alors convenus on n'aperçoit jamais que les Gouvernements qui y prenaient part, aient eu à se préoccuper des prérogatives du Saint Siége au point de vue de son pouvoir spirituel et des intérêts religieux.

Si l'on voulait interroger sur d'autres points l'histoire contemporaine, qui ne se rappellerait qu'au commencement de ce siècle des territoires ecclésiastiques, tels que les évêchés de Salzbourg, la prévôté de Berchtolsgaden, les évêchés de Trente, de Brixen, et d'Eichstadt, servirent, à la demande de l'Autriche, à indemniser ses Archiducs dépossédés en Italie? A l'égard de ces territoires, comme pour les Légations, comme pour l'Electorat de Mayence, aucune solidarité ne fut reconnue entre le droit temporel du possesseur et l'intérêt de la religion; le caractère ecclésiastique des Souverains ne fut pas un obstacle aux combinaisons que les circonstances avaient rendues nécessaires. La participation de la Cour de Vienne à ces diverses transactions ne permet pas assurément d'y voir une application de nouveaux principes à l'usage de la France. Rien ne saurait mieux l'attester que ce qui s'est passé quelques années plus tard. Le Pape Pie VII rentrait à Rome et reprenait l'exercice de son pouvoir temporel lorsque, par un Traité secret, signé à Naples le 11 Janvier, 1814,* l'Empereur François, dans le but d'attacher le Roi Joachim à la cause de la coalition Européenne, s'engageait, "afin de lui procurer une forte frontière militaire en accord avec les besoins politiques des deux Puissances, à lui assurer une acquisition calculée



restitution du Comté d'Avignon et du territoire de Parme au Saint Siége. Ses réclamations, qu'il fondait à la fois sur ses droits anciens et sur des motifs d'utilité pour l'Eglise, ne furent point admises par les Puissances, et nous ne serons pas démentis pas les documents relatifs aux négociations de 1815, si nous ajoutons qu'il ne s'en fallut pas de beaucoup que les Romagnes ne demeurassent alors séparées des Etats Pontificaux. Plus d'une combinaison, conçue dans ce sens, fut agitée au sein du Congrès de Vienne, et l'on sait que la Prusse, par exemple, proposa de disposer des Légations en faveur du Roi de Saxe, qui les aurait reçues à titre de compensation. Ce ne fut pas sans difficulté que le Pape parvint à les conserver, et à faire prévaloir le droit qu'il invoquait contre l'opinion, si digne de remarque, adoptée par les Plénipotentiaires, que les Légations étaient, par droit de conquête, tombées à la disposition des alliés. Quoiqu'il en soit, la discussion, par rapport aux Etats Romains fut constamment maintenue, même par les Puissances Catholiques, dans un ordre de considérations exclusivement temporelles.

C'est là, M. le Comte, le seul enseignement que je veuille tirer des exemples que j'ai rappelés, et qui établissent à quel point la doctrine exposée dans la dernière encyclique, si elle est aujourd'hui conforme aux idées de la Cour de Rome, se trouve en contradiction avec les données les plus positives de la politique. Mon intention n'est nullement d'en faire ressortir les arguments contre les droits reconnus du Saint Siége, mais j'ai tenu à vous fournir le moyen de rectifier autour de vous les impressions erronées qui tendraient à faire considérer une opinion émise sur une question temporelle, comme une atteinte aux prérogatives imprescriptibles et sacrées de l'Eglise Catholique.

Agréez, &c.

Le Comte Persigny. THOUVENEL.

No. 50.—*Sir J. Hudson to Lord J. Russell.*—(*Rec. February* 11.)

MY LORD, *Turin, February* 7, 1860.

I HAVE the honour to inform your Lordship that Chevalier Farini arrived in this capital the day before yesterday, and returned to Modena this morning. I understand that M. Farini expressed his determination to use his best efforts to persuade the people of the Marches and Umbria not to rise against the Pope's Government; and that he has communicated to the Sardinian Government the course which the province of Emilia proposes to pursue with reference to the vote to be taken as to its annexation to Sardinia.

That course appears to be sufficiently simple and comprehensive. The Sardinian electoral law being taken as a basis, the Deputies elected will meet and vote according to their conscientious convictions of their political necessities.

I have, &c.

Lord J. Russell. JAMES HUDSON.

No. 51.—*Earl Cowley to Lord J. Russell.*—(*Received February* 11.)
(Extract.) *Paris, February* 10, 1860.

M. THOUVENEL observed to me that a very general impression prevailed in Europe that the object of Sardinia was to provoke Austria to recommence the war, and that this impression had created in the Northern Courts sentiments very hostile to the interests of Sardinia. He had, therefore, appealed to the loyalty and good sense of M. de Cavour to use his all-powerful interest in Central Italy, in order to maintain the present state of things for the moment, and he expressed his hope that your Lordship would again write to Turin in a similar sense.

Lord J. Russell. COWLEY.

No. 52.—*Lord J. Russell to Earl Cowley.*

MY LORD, *Foreign Office, February* 11, 1860.

HER Majesty's Government have more than once inculcated caution and non-interference on Count Cavour.

But the French Government must contribute to this end. When pamphlets and journals supposed to speak the sense of the Government of France, say that the Pope's authority must be confined to the city of Rome, the people of Umbria and the Marches become excited, and organize risings against the Pope. But as France is distant, they look to Bologna and Florence for aid; and it is very difficult for M. Farini and Baron Ricasoli to restrain the ardour excited by publications which have their origin in Paris.

I am, &c.

Earl Cowley. J. RUSSELL.

No. 53.—*Lord A. Loftus to Lord J. Russell.*—(*Rec. February* 13.)



from the Government at Venice, published on the 5th instant. It runs as follows:

Venice, February 5, 1860.

"His Excellency Field-Martial-Lieutenant Count Degenfeld, Commander-in-chief of the Second Army, in consequence of the increasing system of seduction and temptation employed by the Revolutionary Party to the Imperial Royal troops, has by virtue of the authority forming part of his legal powers been obliged, by his order of the day of 1st February, to institute martial law for all offences against the military power of the State throughout the provinces of Venetia, Mantua, and the district of Trent, which order will come into force on the 15th instant.

"By order of the Imperial-Royal Government in the Provinces of Venetia,

"BISSENGEN, *Imperial-Royal Governor.*"

No. 54.—*Lord A. Loftus to Lord J. Russell.*—(*Rec. February* 13.)

(Extract.) *Vienna, February* 9, 1860.

I HAVE made inquiries in quarters where I could be most likely to ascertain the truth as to the authenticity of the report that the soldiers supplied from Austria to the Papal army in the Marches are maintained at the expense of His Imperial Majesty.

From the information which I have received, I have every reason to believe that this report is unfounded.

An officer in the Papal service (a Prussian by birth) has lately been here to further and superintend the recruitment of Austrian subjects for the Papal army, and I am given to understand that he is supplied by his Government with the necessary funds for that purpose.

I am informed, however, that private subscriptions are being raised here, and through the Empire, for the support of the Pope; and I have no doubt that in addition to these voluntary alms, large sums will be apportioned by the Catholic Clergy to the Papal cause out of the enormous revenues which the Church possesses in this Empire: but I do not believe that the Emperor of Austria or the Imperial Government have devoted any portion of the moneys of the State to the material support of the Pope, or have undertaken any expenses of the nature alluded to.

Lord J. Russell. AUGUSTUS LOFTUS.

No. 55.—*Lord A. Loftus to Lord J. Russell.*—(*Rec. February* 13.)

MY LORD, *Vienna, February* 10, 1860.

ALTHOUGH I had the honour to report to your Lordship in my despatch of yesterday, that martial law had been proclaimed in Venetia and the circle of Trent, it is my duty to forward, herewith,

to your Lordship copy of a despatch which I have received to-day by post from Mr. Consul-General James (with its inclosures), officially announcing the proclamation to which I referred.

I have, &c.

Lord J. Russell. AUGUSTUS LOFTUS.

(*Inclosure* 1.)—*Consul-General James to Lord A. Loftus.*

(Extract.) *Venice, February 7, 1860.*

I HAVE the honour of inclosing a copy, with translation of a notice published last night by Count Bissengen, in consequence of a communication received from Count de Degenfeld, Commander-in-chief of the Second Army, dated the 1st of February instant, but not to take effect until the 15th of the month, by which the whole of the Venetian provinces, together with that of Mantua and the circle of Trent, are put in an exceptional state, in consequence of revolutionary movements which have lately manifested themselves. This state is not exactly a state of siege, but is called "Giudizio Statario," by which all offences against the military power are subject to trial by Special Commissioners, the ordinary law of the land being suspended.

I cannot say that this measure has been taken altogether without cause; for demonstrations of a decidedly revolutionary character have appeared in various parts of the provinces, although nothing of a very violent description.

The discontent, however, is increasing daily; and the reports which are gaining ground that the French forces in Lombardy are approaching every day nearer the Mincio, are of course calculated to alarm the Austrian Government, and induce it to take steps against a popular demonstration in favour of any thing like foreign aggression. At the same time the defections of small bodies of

(Trial by Special Commission) for crimes against the military power, for the State of the whole Venetian dominion, for the province of Mantua, and for the circle of Trent, which will take effect on the 15th day of February instant.

The above is publicly notified in consequence of communication had with his Excellency the Commandant of the Second Army, dated the 1st of this month, under No. 218 Pres.

BISSENGEN, *Imperial Royal Lieutenant.*

No. 56.—*Lord Bloomfield to Lord J. Russell.*—(*Rec. February* 13.)
(Extract.) *Berlin, February* 11, 1860.

THE impression which I have just received from a short conversation with Baron Schleinitz is, that the Prussian Government continue to differ from Her Majesty's Government on the principle of the arrangements upon which England and France proposed to act in Italy, they are not likely on that account to make any attempt to arrest the march of events, or to offer opposition to their policy.

Lord J. Russell. BLOOMFIELD.

No. 57.—*Mr. Corbett to Lord J. Russell.*—(*Received February* 14.)
MY LORD, *Florence, February* 6, 1860.

I HAVE the honour to inform your Lordship that the number of Deputies who will be chosen to represent Tuscany and the provinces of the Emilia, in the National Parliament about to be elected, will be 57 for the former province, and 70 for the latter.

I have, &c.

Lord J. Russell. EDWIN CORBETT.

No. 58.—*M. Thouvenel to Count Persigny.*—(*Communicated to Lord J. Russell by Count Persigny, February* 14.)
M. LE COMTE, *Paris, le* 11 *Février*, 1860.

POUR rétablir l'exactitude de faits importants et prévenir aussi des appréciations erronées, j'ai cru devoir adresser à l'Ambassadeur de Sa Majesté à Rome la dépêche dont j'ai l'honneur de vous envoyer ci-joint la copie. Vous pourrez en faire usage pour dégager, toutes les fois que vous le jugerez utile, la responsabilité du Gouvernement de l'Empereur.

Agréez, &c.

Le Comte Persigny. THOUVENEL.

(*Inclosure.*)—*M. Thouvenel to the Duc de Gramont.*
M. LE DUC, *Paris, le* 12 *Février*, 1860.

Je vous ai fait connaître l'impression que nous a causée l'Encyclique du Saint Père aux Evêques, et je ne vous ai point dissimulé le regret sincère que nous en avons ressenti. Je crois devoir aujourd'hui compléter la circulaire que j'ai adressée aux Agents

Diplomatiques de l'Empereur, sous la date du 8 de ce mois, en examinant avec vous les faits récents qui ont amené la situation actuelle dans les Légations, afin d'établir d'où vient le mal et à qui incombent les responsabilités.

Comment donc ont éclaté les événements de la Romagne, et comment les choses en sont-elles venues au point où nous les voyons en ce moment ? Est-ce seulement à la dernière guerre qu'il convient de faire remonter l'état présent des choses dans ce pays ? Est-il vrai que l'insurrection soit uniquement l'œuvre d'agitateurs étrangers qui auraient travaillé les esprits et noué savamment les fils d'une conspiration redoutable ? Qui ne comprend, au contraire, que ces allégations témoignent d'une complète illusion sur les sentiments des populations ? Qui ne sait la condition précaire de l'autorité que le Gouvernement Pontifical exerçait dans ces contrées ? Qui se dissimule la situation pénible créée par un système d'administration dont l'opinion unanime des Grandes Puissances réclamait la réforme dès 1831, et aggravée de plus en plus par une occupation étrangère interrompue seulement à de rares intervalles de 1815 à 1848, pour devenir depuis lors permanente ? Il m'en coûterait de m'étendre sur des détails présents à l'esprit de quiconque n'est pas entièrement étranger aux affaires de son temps. Bien que l'Encyclique nous donnât le droit de rappeler le passé et de juger le régime politique appliqué aux Légations, je m'abstiendrai de me placer sur ce terrain. Je me bornerai simplement à faire observer que dès l'instant où les Autrichiens se retiraient les événements qui se sont accomplis après leur départ étaient certains et inévitables. En effet, il n'existait dans le pays aucun pouvoir, aucune force capable d'opposer la moindre résistance ; l'Administration Romaine y était encore plus désarmée et plus faible qu'impopulaire. Les Autrichiens repassant le Pô, le pays s'appartenait entièrement à lui-même.



continuer son rôle, mais j'ai le droit de rappeler que la France est restée fidèle au sien. Les troupes Autrichiennes éloignées, les populations, depuis longtemps désaffectionnées à l'égard d'un pouvoir compromis par l'appui de l'étranger, ont profité des conjonctures sans avoir besoin d'y être entraînées par aucune excitation particulière, et l'on peut dire, je le répète, qu'elles se sont trouvées plutôt encore qu'elles ne se sont rendues indépendantes. Voilà tout le secret du soulèvement des Romagnes.

Ce soulèvement, M. le Duc, ne saurait donc être imputé à la France ni autoriser un doute quelconque sur la sincérité des assurances de sympathie et de dévouement que l'Empereur avait données à Pie IX à l'origine de la guerre. Mais l'Empereur devait-il ne point prendre en considération les faits nouveaux qui ont surgi contrairement à ses vœux? Sa Majesté, appréciant comme elle le devait les difficultés de la situation, et jugeant cependant que la Paix conclue à Villafranca pouvait produire toutes les conséquences qu'elle en attendait, si la Cour de Rome secondait ses efforts, s'adressait au Pape de Dezenzano, le 14 Juillet:—"Dans ce nouvel ordre de choses" écrivait l'Empereur, "votre Sainteté peut exercer la plus grande influence, et faire cesser pour l'avenir toute cause de troubles: qu'elle consente, ou plutôt que, de *proprio motu*, elle veuille bien accorder aux Légations et aux Marches une Administration séparée, avec un Gouvernement Laïque nommé par elle, mais entouré d'un Conseil formé par l'élection, que cette province paie au Saint Siége une redevance fixe, et votre Sainteté aura assuré le repos de ses Etats et pourra se passer de troupes étrangères.

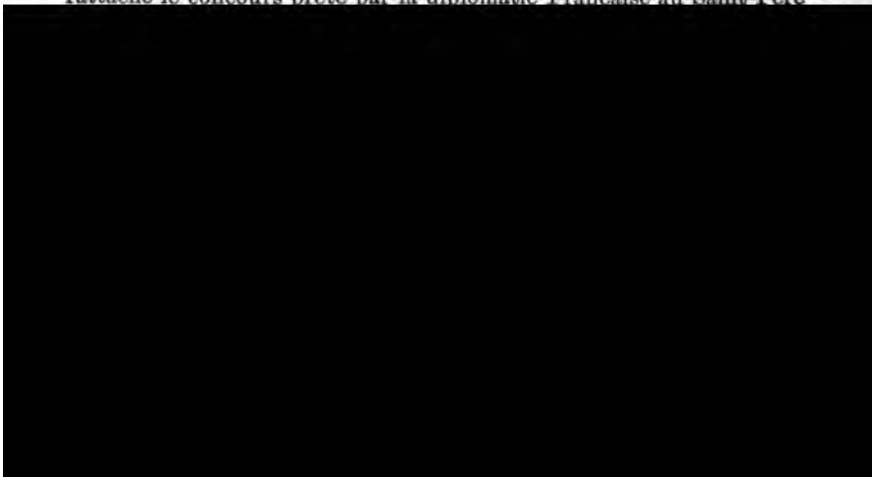
"Je supplie votre Sainteté d'écouter la voix d'un fils dévoué à l'Eglise, mais qui comprend les nécessités de son époque, et qui sait que la force brutale ne suffit pas pour résoudre les questions et aplanir les difficultés.

"Je vois dans la décision de votre Sainteté ou le germe d'un avenir de paix et de tranquillité, ou bien, la continuation d'un état violent et calamiteux."

Vous savez, M. le Duc, que ces suggestions ne furent pas accueillies. Pendant que les événements, en se succédant, multiplisient les difficultés, la Cour de Rome persistait à se renfermer dans une abstention uniquement propre à aggraver un état de choses qui déjà ne pouvait plus se concilier avec son autorité, sans sacrifices ou sans compensations. C'est ainsi qu'en ne tenant nul compte des faits ni des avertissements, on a laissé passer toutes les circonstances opportunes pour rattacher les Légations au Saint Siége; c'est ainsi qu'on s'est trouvé en présence d'une éventualité que l'Empereur a vainement voulu conjurer, et que Sa Majesté a été amenée à adresser au Saint Père sa lettre du 31 Décembre.

Et maintenant, je le demande, les choses s'étant passées comme

je viens de le rappeler, les conseils que l'on a repoussées étaient-ils donc si étranges ? Certes, la sincérité des sentiments dans lesquels ils ont été donnés est, du moins, bien démontrée. Les regards, disons mieux le dévouement, que le Gouvernement Impérial a montrés en toute occasion au Chef de l'Eglise, sont un des traits dominants de l'histoire des 10 années qui viennent de s'écouler. Le Clergé de France sait avec quelle bienveillance et avec quelle largeur de vues le Gouvernement Impérial a toujours pratiqué les lois qui règlent ses rapports avec la Cour de Rome. Il sait qu'il a trouvé lui aussi, dans l'Empire un pouvoir réparateur, et que, sous cet appui tutélaire, il a repris, dans la société Française, l'influence et l'autorité que d'autres régimes lui avaient disputées. Ces faits seuls suffiraient pour attester de quelles dispositions le Gouvernement Impérial était animé à l'égard de la Papauté, lors même qu'il ne lui en aurait point donné des preuves directes et incessantes. Nous ne contestons point que l'occupation de Rome à l'époque où elle a été entreprise, n'ait été dictée par des considérations politiques en même temps que religieuses ; mais qui peut nier que la France n'ait été déterminée à continuer d'année en année les sacrifices que cette mesure lui impose, avant tout par une sollicitude affectueuse et persévérante pour les intérêts du Saint Siége ? Qui ne reconnaît les ménagements au moyen desquels le Gouvernement de l'Empereur a atténué ou même prévenu les inconvénients que l'occupation de Rome était de nature à avoir, dans le fond comme dans la forme, pour la souveraineté du Saint Père ? Qui peut se refuser à voir dans cet ensemble des faits un témoignage des intentions les plus cordiales, et de la volonté la plus formelle non-seulement de protéger la position personnelle du Saint Père, mais d'étendre, s'il était possible, son influence morale. C'est à cet ordre d'idées notamment que se rattache le concours prêté par la diplomatie Française au Saint Père



intervention. Les événements ont assez démontré combien cette mesure serait impuissante à remédier au mal. L'opinion de l'Europe est formée sur ce point, et l'occupation, condamnée par les leçons du passé dans les Légations mêmes, est un expédient auquel personne ne pourrait plus songer à recourir à moins de méconnaître des nécessités qui s'imposent à la sagesse et à la prévoyance de tous les Gouvernements.

Une telle politique est inadmissible aujourd'hui. L'autorité monarchique ni la majesté de l'Eglise n'auraient rien à y gagner; la religion et la raison se réunissent pour la repousser avec une égale énergie.

Ainsi donc, M. le Duc, le moment était bien venu de se préoccuper de combinaisons différentes lorsque l'Empereur en a signalé la nécessité au Pape. Les intérêts les plus évidents, les considérations les plus pressantes, y convient le Saint Siége. Un parti plus absolu de se refuser à reconnaître le caractère vrai de l'état de choses actuel ne ferait que l'aggraver de plus en plus, et finirait par créer des impossibilités également absolues. Au contraire, si le Saint Siége se décidait enfin à descendre des régions mystiques où la question n'est pas réellement placée pour revenir sur le terrain des intérêts temporels seuls engagés dans le débat, si à l'intelligence de la situation il joignait de la modération dans les procédés, peut-être apporterait-il, quoiqu'il soit bien tard, un changement favorable à sa cause. Il permettrait en tout cas au Gouvernement de l'Empereur de prêter son appui à une politique conciliante et raisonnable.

Vous êtes autorisé à donner lecture de cette dépêche au Cardinal Antonelli, et à lui en laisser copie s'il vous en exprime le désir.

Agréez, &c.

Le Duc de Gramont. THOUVENEL.

No. 59.—*Earl Cowley to Lord J. Russell.*—(*Received February* 14.)

(Extract.) *Paris, February* 13, 1860.

M. THOUVENEL expresses himself satisfied with the accounts which he has received from Turin, where he has reason to think that the Government, convinced that, in face of the third point of the proposals of Her Majesty's Government, it will be impossible for them to obtain possession of Venetia, wish to desist from all further agitation of the question. At the same time his Excellency has not considered it incompatible with his acceptance of the third point to indicate to the Cabinet of Vienna accounts which he receives from Venetia, and to call the serious attention of the Austrian Government to the danger of protracting this state of things.

Lord J. Russell. COWLEY

No. 60.—*Lord A. Loftus to Lord J. Russell.*—(*Rec. February* 20.)
(Extract.) *Vienna, February* 16, 1860.

THE French Ambassador at this Court communicated officially to Count Rechberg on the 4th instant, and placed in his Excellency's hands, a copy of the despatch which he had received from his Government, submitting to the serious consideration and approval of the Imperial Cabinet the 4 points which had been proposed by your Lordship as the most practicable and advisable means of attaining a pacific solution of the Italian question.

Lord J. Russell. AUGUSTUS LOFTUS.

No. 61.—*Sir J. Crampton to Lord J. Russell.*—(*Rec. February* 20.)
(Extract.) *St. Petersburg, January* 26, 1860.

PRINCE GORTCHAKOFF, since the conclusion of the Peace of Villafranca, and the agitation of the question of an European Congress for the settlement of the affairs of Italy, has uniformly made a pointed reserve of the opinion of Russia as to the principles upon which such a settlement could be made, as well as in regard to the means by which it could be brought about; his Excellency being of opinion that these points could be better determined by a discussion of them in the projected Congress itself than by a previous establishment of them as bases before its assembly.

After the opinion of Her Majesty's Government became known that the Italians should be allowed freely to adopt such political arrangements for Central Italy as they might determine upon for themselves, and the determination of Great Britain to be, at all events, no party to a Congress which should sanction a forcible interference for the re-establishment either of the previously existing, or of any other order of things, Prince Gortchakoff still adhered to the system he had at first adopted; and although he pointed out to



assembly. He recalled to my recollection that he had from the beginning recommended that the principles upon which the affairs of Italy should be regulated ought to be discussed and settled by the Congress, and not laid down as preliminary bases. Two of the principal Powers of Europe had, however, now come to an understanding as to points of the greatest importance, and had announced their decision of them beforehand. This being the case, he could no longer see that there would be any place in such an assembly for Russia. With respect to the opinion of Russia on Italian affairs all he could say to me was, that had the Congress taken place in the manner he had suggested, she would not have been found disposed to push to their extreme consequences abstract doctrines of any sort, and that she would have laboured conscientiously to conciliate conflicting views, and to arrive at a practical solution of the questions under discussion.

In regard to the question as to whether, in his opinion, it would, nevertheless, not be necessary at some future time, that, the affairs of Italy, which could not be expected to remain permanently in their present provisional state, should ultimately become the subject of an European understanding, Prince Gortchakoff said that if, at some future time, and under other circumstances, a proposal should be made to Russia to take part in a Congress, that proposal would be certainly taken into consideration by her; but in that case, he added, she would not consent to take part in a Congress without a previous understanding as to the principles upon which its discussions were to be based. In no case, however, would Russia take the initiative in proposing a Congress: the affairs of Italy concerned her less than most of the other Powers of Europe.

Prince Gortchakoff's tone in this conversation was very friendly towards England, and he took occasion to express his satisfaction generally at the amicable nature of the communications which had lately taken place between your Lordship and Baron Brunnow.

Lord J. Russell. JOHN F. CRAMPTON.

No. 62.—*Sir J. Crampton to Lord J. Russell.*—(*Rec. February* 20.)
(Extract.) *St. Petersburg, February* 11, 1860.

I HAD the honour to receive last night, by messenger Wright, your Lordship's despatch of the 25th ultimo, and in obedience to the instructions therein contained, I read to Prince Gortchakoff the despatches addressed by your Lordship to Lord Cowley on the 15th ultimo, and to Lord Augustus Loftus on the 14th ultimo, containing the proposals made by Her Majesty's Government to France and Austria with regard to the Italian question, without, however, giving copies of them to his Excellency.

As soon as I had communicated to his Excellency the views of

Her Majesty's Government, Prince Gortchakoff remarked that as I had not been instructed to make any proposition to Russia, or to put any question to him in regard to the subject of the despatches I had just read, he might very well maintain the same reserve which I would no doubt do him the justice to admit he had hitherto consistently observed in regard to the opinion of Russia upon the affairs of Italy.

Lord J. Russell. JOHN F. CRAMPTON.

No. 63.—*Earl Cowley to Lord J. Russell.*—(*Received February* 22.)

MY LORD, *Paris, February* 21, 1860.

PRINCE METTERNICH placed, yesterday, in M. Thouvenel's hands the answer of the Austrian Government to the two despatches which the latter addressed, on the 30th and 31st ultimo, to the French Ambassador at Vienna, with reference to the proposals made by Her Majesty's Government for the settlement of the affairs of Italy.

These documents will be sent to-night to M. de Persigny for communication to your Lordship. I need not, therefore, attempt any analysis of them; but I confine myself to stating that the Austrian Government, while disputing the correctness of the conclusions at which the French Government have arrived, and while declaring that they cannot, consistently with their principles, recognize the state of things in Italy to which these conclusions will lead, seem to have made up their minds to let matters take their course. Count Rechberg concludes one of the despatches by stating, in M. Thouvenel's own words (see his despatch of the 31st ultimo),—"Que si la différence des principes peut, et quelquefois doit, conduire à des appréciations différentes, il n'est pas nécessaire qu'il en résulte lorsque l'honneur est sauf des deux parts des conflits

No. 64.—Earl Cowley to Lord J. Russell.—(Received February 23.)
(Extract.) *Paris, February 22, 1860.*

GENERAL KISSELEFF communicated yesterday to M. Thouvenel the reply of the Russian Government to the overture made from hence with reference to the proposals of Her Majesty's Government for settling the affairs of Central Italy.

The Russian Ambassador only read Prince Gortchakoff's despatch to M. Thouvenel, but left no copy with him.

M. Thouvenel sees no object to be gained from a Conference, unless the Austrian Government shall be induced to quit the ground of passive resistance which they have taken up.

Lord J. Russell. COWLEY.

No. 65.—Count Rechberg to Prince Metternich.—(Communicated to Lord J. Russell by Count Apponyi, February 23.)

Vienne, le 17 Février, 1860.

M. LE MARQUIS DE MOUSTIER m'a donné lecture et copie des deux dépêches que j'ai l'honneur de transmettre à votre Altesse ci-après en copie.

La première de ces pièces, adressée au Comte de Persigny, rend compte de l'accueil favorable qu'ont rencontré de la part du Gouvernement Français les 4 propositions du Cabinet Britannique, tendant à pacifier l'Italie Centrale, et dont votre Altesse connaît la teneur par mon expédition du 30 Janvier dernier.

L'autre dépêche, à l'adresse du Marquis de Moustier, a pour but de développer plus particulièrement les motifs qui engagent l'Empereur Napoléon à considérer le plan de pacification du Gouvernement Anglais comme une solution acceptable, bien qu'elle soit contraire aux prévisions des Traités de Villafranca et Zurich.

Je me suis empressé de placer sous les yeux de l'Empereur notre auguste maître les dépêches que l'Ambassadeur de France a laissées entre mes mains. Aujourd'hui, mon Prince, je me trouve à même de vous faire connaître l'impression qu'elles ont produite sur l'esprit de Sa Majesté :

Ma dépêche au Comte Apponyi en date du 30 Janvier dernier, dont vous avez donné communication à M. de Thouvenel, indique déjà sommairement les considérations qui nous empêchent d'adhérer à la combinaison proposée par le Cabinet Britannique.

Ces considérations sont si évidentes qu'elles n'ont pu échapper à la pénétration du Gouvernement Français. Aussi ne nous demande-t-il pas notre assentiment, au projet de faire dépendre le sort futur de l'Italie Centrale d'un nouveau vote des populations ; il se borne à exprimer le désir que nous nous abstenions d'une opposition formelle à l'exécution de ce plan.

En constatant cette appréciation nous aimons à rendre justice

au jugement éclairé de M. de Thouvenel, qui se rend lui-même si exactement compte des exigences de notre position.

Jetons un coup d'œil rapide sur la situation et reportons-nous par la pensée à la date où M. le Ministre des Affaires Etrangères reprend lui-même les faits.

A l'époque de la signature des Préliminaires de Villafranca, l'Empereur Napoléon—M. de Thouvenel l'atteste—se livrait à l'espoir que l'organisation nouvelle de l'Italie pouvait se concilier avec la restauration des pouvoirs légitimes. C'est de cet espoir, qui dans l'esprit de l'Empereur François Joseph, s'élevait à la hauteur d'une conviction, que s'inspirèrent les deux Souverains en se tendant la main dans le but de mettre fin à l'effusion du sang. L'Empereur notre auguste Maître consentit à s'imposer un pénible sacrifice à condition toutefois que les pouvoirs légitimes seraient réintégrés dans l'Italie Centrale. Sa Majesté, dans l'intérêt du rétablissement de la paix, et dans l'espoir qu'elle serait consolidée et rendue féconde en résultats salutaires par une entente parfaite avec son adversaire de la veille, se décida à renoncer à des droits et titres dont elle pouvait disposer ; mais elle se refusa positivement d'entrer dans des combinaisons qui auraient porté atteinte aux droits d'autrui, et nommément à ceux de Princes qui avaient eu foi dans son alliance. Opposer une barrière à la marche de plus en plus envahissante de la révolution en réintégrant les Souverains dépossédés, et aller à la fois au devant des vœux de l'Empereur des Français, tendant à donner satisfaction aux affirmations du sentiment national, en unissant étroitement les Gouvernements de la Péninsule par un lien fédératif, tel était le double but qui présida tant aux actes de Villafranca et de Zurich, qu'à l'échange d'idées qui eut lieu entre les deux Cabinets à Biarritz, surtout dans le but de concerter une marche uniforme pour assurer l'exécution de la partie politique des stipulations de la paix.

[redacted]

lesquels elle viendrait à échouer? Sans vouloir les méconnaître nous sommes loin de les tenir pour aussi insurmontables qu'ils se présentent à l'esprit de M. de Thouvenel. Nous nous réservons, mon Prince, de consigner dans une dépêche séparée ce qui nous reste à dire à ce sujet.

Somme toute, l'Empereur, pour sa part, croit devoir chercher la solution de la question sur le terrain des Conventions de Villafranca et de Zurich, dont toutes les stipulations sont, au point de vue du droit, liées entre elles par une parfaite solidarité. Nous ne saurions prêter notre concours à des combinaisons qui ne tiendraient aucun compte des réserves consignées dans le Traité de Zurich en faveur des droits des Souverains dépossédés. En présence d'un résultat si contraire à notre juste attente, nous nous trouverions dans l'impossibilité morale de le sanctionner en le reconnaissant. Cette attitude, que le Gouvernement Français lui-même, j'en suis persuadé, est trop juste pour ne pas qualifier d'irréprochable, tient aux yeux de l'Empereur notre auguste Maître non-seulement à une question d'honneur, mais aussi à une profonde conviction politique.

Plus étaient grandes les espérances que nous rattachions à l'entente intime avec la France sur les moyens d'amener le dénouement des complications Italiennes, et plus nous regrettons de ne pouvoir nous approprier le jugement que le Cabinet des Tuileries semble être disposé à porter sur la quatrième proposition Anglaise. Mais tout en déplorant cette divergence d'opinion nous nous associons à l'espoir dont M. de Thouvenel s'est rendu l'éloquent interprète en établissant que si la différence des principes peut et quelquefois doit conduire à des appréciations différentes, il n'est pas nécessaire qu'il en résulte, lorsque l'honneur est sauf des deux parts, des conflits désastreux et si éloignés des intentions de la France et de l'Autriche.

J'invite votre Altesse à donner lecture de cette dépêche à M. de Thouvenel, et à lui en remettre copie s'il en témoigne le désir.

Recevez, &c.

Le Prince Metternich. RECHBERG.

No. 66.—*Count Rechberg to Prince Metternich.*—(*Communicated to Lord J. Russell by Count Apponyi, February* 23.)

Vienne, le 17 *Février*, 1860.

Avant de se prononcer définitivement sur la quatrième proposition Anglaise, le Gouvernment Français a cru indispensable d'expliquer et de justifier sa situation vis-à-vis de nous, et des Cours de Berlin et de St. Pétersbourg.

Nous apprécions trop les soins que M. de Thouvenel a voués à l'accomplissement de cette tâche pour ne pas, à notre tour, attacher du prix à mettre dans tout leur jour les motifs de la ligne de con-

duite que nous croyons devoir nous tracer à nous-mêmes. C'est dans ce but que nous allons suivre M. de Thouvenel dans l'exposé historique contenu dans sa dépêche.

Parmi les obstacles qui auraient empêché la réalisation de l'espoir de l'Empereur Napoléon de pouvoir concilier la nouvelle organisation de l'Italie avec la restauration des anciennes dynasties, M. le Ministre des Affaires Etrangères énumère l'inaction et l'attitude passive des chefs de ces dynasties, l'hésitation du Souverain Pontife à proclamer des réformes, enfin le silence gardé par l'Autriche sur les intentions généreuses qui avaient été manifestées à l'Empereur Napoléon à l'égard du Gouvernement de la Vénétie.

Qu'il nous soit permis de demander de quelle manière les Souverains dépossédés auraient pu agir en face de la situation qui leur a été faite. Inutile de récapituler ici les causes qui ont produit le soulèvement de l'Italie Centrale. Ces faits appartiennent aujourd'hui au domaine de l'histoire. C'est la Sardaigne qui, après avoir préparé le mouvement de longue main, s'en est emparée pour le faire servir à ses fins. Ce sont les Agents Sardes qui ont réorganisé l'Administration en éliminant tous les éléments suspects d'attachement à l'ancien ordre de choses; ce sont des officiers Sardes qui ont formé l'Armée de la Ligue. A l'heure qu'il est le Ministre de la Guerre de Sa Majesté Sarde est à la fois Commandant-en-chef de l'Armée de la Ligue, et plusieurs Généraux Sardes dirigent les préparatifs militaires qui se font à Bologne. Les pays insurgés ont été placés sous le régime de la Dictature Militaire; toute manifestation en faveur des Souverains légitimes a été poursuivie comme crime de haute trahison. Les cinq-sixièmes de la population ont été exclus des opérations électorales, et ceux qui ont pu exercer le droit d'élire n'ont voté que sous la pression du terrorisme mis en pratique par le parti dominant. En présence d'un état de choses aussi violent,

que la Paix de Villafranca a été pour le parti révolutionnaire le signal d'un redoublement d'activité dont la Vénétie a été à la fois l'objet et la victime ? Les Comités formés dans ce but n'ont-ils pas, sous l'égide de la Sardaigne, fait des efforts inouis pour soulever les Provinces Vénétiennes ? Nous en appelons à cet égard au témoignage de la valeureuse et loyale armée Française, sous les yeux de laquelle se pratiquaient ces manœuvres, et qui, nous en sommes convaincus, s'est associée au sentiment d'indignation provoqué chez nous par cette guerre sourde, qui se continuait à l'ombre d'une paix à peine signée. Les émissaires du désordre ont sillonné la Vénétie dans tous les sens, soufflant partout le feu de la discorde ; ils ont si bien réussi que le Gouvernement a senti l'impérieux devoir d'accorder aux citoyens paisibles la protection efficace à laquelle ils ont un droit sacré, en prenant des mesures de rigueur contre les ennemis implacables de la tranquillité publique. Le Gouvernement Impérial aurait-il été heureusement inspiré en choisissant un moment pareil pour donner suite aux intentions auxquelles M. de Thouvenel a fait allusion ?

En rappelant la série des efforts tentés par le Gouvernement Français dans l'intérêt de la restauration, ce Ministre signale aussi les missions confiées à M. de Reiset et au Prince Poniatowski, et qui, au dire de M. de Thouvenel, ont échoué devant la résistance des populations.

Mais cet insuccès ne pourrait-il pas, sans risque de se tromper, être attribué aussi en grande partie aux assurances données dès la Paix de Villafranca par d'autres organes du Gouvernement Français, et dans lesquelles le parti dominant avait puisé la conviction que l'emploi de la force était exclu des moyens d'opérer la restauration. Entièrement rassurés par cette promesse, les Gouvernants avaient évidemment intérêt à rester sourds aux insinuations qui leur étaient faites dans le sens de la restauration, et à employer sans réserve tous les moyens dont dispose toujours un pouvoir établi, pour empêcher la véritable opinion de la majorité de se faire jour.

Quoiqu'il en soit, la France ne s'en tint pas là. Elle provoqua la réunion d'un Congrès dans l'espoir de triompher, avec le concours de l'Europe, de l'opposition que les tentatives isolées de la France avaient rencontrée.

C'est en nous associant à cet espoir que nous consentîmes à prendre part au Congrès, après avoir acquis la certitude que les Plénipotentiaires Français agiraient avec ceux de l'Autriche dans un esprit de parfait accord pour faire respecter les droits souverains réservés par le Traité de Zurich et pour s'opposer aux tendances annexionistes.

Les choses en étaient là lorsqu'un événement imprévu vint modifier essentiellement la situation. Favoriser des projets tendant

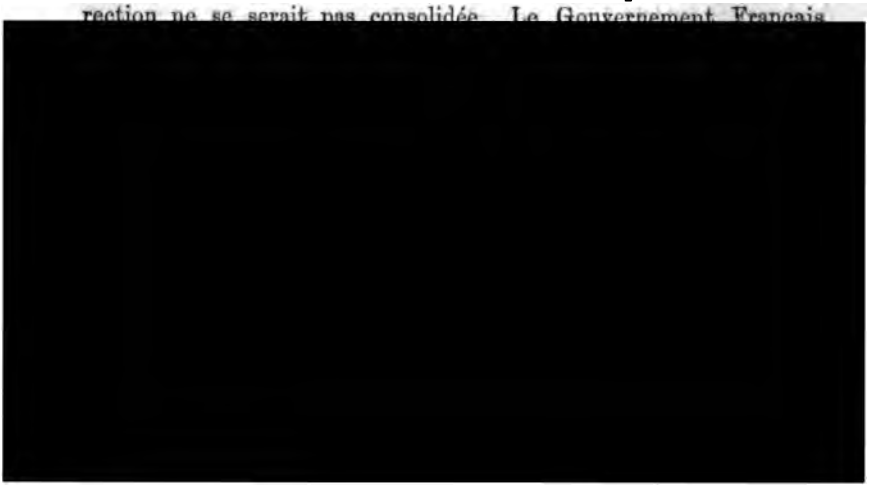
à porter atteinte à l'intégrité territoriale des Etats de l'Eglise c'était altérer les bases de l'accord si heureusement établi entre nous et la France. Car le maintien de cette intégrité avait été considéré jusqu'alors dans toutes les négociations entre le deux Cabinets comme une question placée en dehors de toute discussion, et l'Article XX du Traité de Zurich l'envisageait sous le même point de vue.

Tandis qu'on s'adressait de toutes parts la question quelles chances de succès pouvait encore offrir le Congrès, sous l'empire de circonstances si notablement changées, la France elle-même prit le parti de l'ajourner indéfiniment.

Le Gouvernement Français a regretté les objections que la convocation des Plénipotentiaires a rencontrées lorsqu'ils étaient sur le point de se réunir. Nous croyons avoir démontré que ces obstacles étaient en tout état de cause indépendants de notre volonté.

En poursuivant l'analyse de la situation, M. de Thouvenel examine le question si la restauration pourrait être amenée par l'intervention armée de l'Autriche ou de la France. Il conclut à l'impossibilité morale dans les deux sens.

Il nous importe ici de distinguer entre la question de principe et celle de l'opportunité. Des motifs politiques d'une nature diverse, dont nous tiendrons compte pour notre part, recommandent aux deux Puissances de s'abstenir de l'intervention armée dans l'Italie Centrale. Nous attachons du prix à constater, d'un autre côté, que l'application du principe invoqué par la France est sujette à bien des variations qui dépendent de la nature des circonstances. Il est certain que la Sardaigne a exercé en faveur de l'insurrection de l'Italie Centrale une intervention active sans laquelle cette insurrection ne se serait pas consolidée. Le Gouvernement Français



ils inhérents à la combinaison proposée par le Gouvernement Britannique? Nous nous permettons d'en douter après mûr examen.

Nous ne méconnaisons pas que la prolongation de l'état d'incertitude qui pèse sur l'Italie Centrale pourrait finir par entraîner le débordement de l'esprit démagogique que M. de Thouvenel paraît redouter. Mais nous ne saurions nous empêcher non plus de craindre qu'une solution qui impliquerait le triomphe des principes que le parti démagogique est habitué à invoquer, loin de conjurer ces dangers, ne fût plûtot de nature à les accroître.

Rien n'est plus étranger à notre pensée que d'envisager au point de vue d'une lutte d'influence, ou d'une rivalité politique entre l'Autriche et la France, la grave question qui nous préoccupe. S'il s'agit, comme le fait observer M. de Thouvenel, de constituer l'Italie comme un intermédiaire entre les deux Puissances, nous avons fourni la preuve que nous sommes prêts à concourir à cette œuvre, tout en persistant dans la persuasion que le programme de Villafranca offrait le moyen de l'accomplir d'une manière pratique, et sans danger pour l'équilibre politique de l'Europe.

M. de Thouvenel s'est réservé de traiter dans une prochaine dépêche la question des Romagnes. Nous avons déjà eu occasion de développer notre point de vue à ce sujet dans la dépêche que j'ai eu l'honneur d'adresser à votre Altesse, en date du 20 Janvier. Cela ne nous empêchera pas d'accueillir avec le plus vif intérêt l'ouverture que M. le Ministre des Affaires Etrangères nous annonce.

Vous êtes autorisé, M. le Prince, à donner lecture de cette dépêche à M. de Thouvenel, et à lui en remettre copie s'il en témoigne le désir.

Recevez, &c.

Le Prince Metternich. RECHBERG.

No. 67.—Earl Cowley to Lord J. Russell.—(Received February 25.)

My Lord, *Paris, February 24, 1860.*

M. Thouvenel mentioned to me yesterday, that whether the proposals of Her Majesty's Government for the settlement of Italy were to be accepted in their entirety or not, Her Majesty's Government had rendered an immense service to the Italian cause in making them; since the Imperial Government had thus been enabled to enter into explanations with the Austrian Government, and loyally and honourably to free themselves from engagements which it had become impossible to fulfil.

I have, &c.

Lord J. Russell. COWLEY.

No. 68.—Lord A. Loftus to Lord J. Russell.—(Rec. February 27.)

MY LORD, *Vienna, February 23, 1860.*

COUNT RECHBERG informed me on Monday last that he had addressed to Prince Metternich a despatch in reply to the late communication from the French Government respecting Italian affairs, and that it had been forwarded to Paris on Friday last. His Excellency also informed me that Count Apponyi had received instructions to communicate a copy of that document to your Lordship.

His Excellency was good enough to read that despatch to me. As your Lordship will have received a copy of it from Count Apponyi before this despatch reaches you, it is unnecessary that I should detail at length the substance of it. The general sense and purport of it is in complete accordance with the reply of the Austrian Cabinet to the proposals lately submitted by your Lordship. With reference more especially to the fourth point, Count Rechberg observes that Her Majesty's Government had not submitted that proposal to the Austrian Cabinet for their acceptance, as it could not be expected that Austria could sanction a new status in Central Italy in opposition to their principles and their engagements. He conveys, however, the anxious desire of the Imperial Cabinet to avoid any differences with France, and announces, although in a cautious and vague manner, a policy of resignation.

I am told that Count Rechberg has received intelligence from Paris that his reply has made a good impression.

I have, &c.

Lord J. Russell. AUGUSTUS LOFTUS.

*No. 69.—Lord J. Russell to Lord A. Loftus.**

MY LORD, *Foreign Office, February 17, 1860.*

I INCLOSE for your Lordship's information copies of the corre-

[redacted]

M. Thouvenel, the object of which I am about to lay before your Lordship.

M. Thouvenel began the conversation by stating that he wished to lay confidentially before Her Majesty's Government the solution which the Emperor, after mature consideration, desired to give to the Italian question. The object which His Majesty had in view was to effect such a settlement as would have a chance of obtaining the recognition of Europe.

This solution, M. Thouvenel thought, might be found in the following combination:

1st. The complete annexation of the Duchies of Parma and Modena to Sardinia.

2ndly. The annexation of the three Legations of Romagna, Ferrara, and Bologna, by means of a Vicariat exercised by the King of Sardinia.

3rdly. The establishment of a Prince of Savoy in Tuscany.

M. Thouvenel proceeded to develope at great length the reasons which induced him to recommend this arrangement.

M. Thouvenel having terminated his statement, asked me to tell him confidentially, whether I thought that Her Majesty's Government would be satisfied with an arrangement of this nature, and whether they would have any objection to his entering into communication with the Sardinian Cabinet with a view of carrying it into effect.

I replied to M. Thouvenel, that he must have seen, from the communications which I had made to him, that the policy of Her Majesty's Government was not to interfere in Italy at all, but to let the Italian people settle their own affairs. The suggestion which he had made to me, if I understood it rightly, involved a departure from this policy; and I should not, therefore, encourage him to believe that Her Majesty's Government would adopt it. I presumed that Her Majesty's Government would not desire to stand in the way of any communication which the Imperial Government might think it advisable to make to the Sardinian Cabinet; but if it was hoped that Her Majesty's Minister at Turin would be charged with an analogous communication, I could not venture to encourage the entertainment of such a hope.

Whatever may be the decision which Her Majesty's Government may take, I thought it advisable to raise no expectation of any alteration of the policy laid down in your Lordship's despatch of the 15th ultimo.

M. Thouvenel evinced considerable disappointment at what I said. He observed, that the whole basis of his policy would be to act in entire unison with Her Majesty's Government, and that he

could not give a greater proof of it than in making to me the confidential communication which is the subject of this despatch.

M. Thouvenel then asked me whether I would undertake to be the channel of communication between the two Governments on this occasion. If I would ascertain, confidentially, the sentiments of Her Majesty's Government on this subject, he should be sincerely obliged to me.

Although greatly embarrassed at this proceeding, I thought it, on the whole, better not to refuse M. Thouvenel's request. I am bound to add that, throughout this lengthened conversation, he rather appealed to the friendly consideration of Her Majesty's Government than evinced the slightest disposition to act contrary to their wishes.

Your Lordship will learn with concern that the question of Savoy is put forward by M. Thouvenel. I observed that it might at least have been expected that a scheme which left Tuscany an independent State should have put an end to the pretensions of France in that quarter, but such, I am sorry to say, is not the case.

Lord J. Russell. COWLEY.

No. 71.—Lord J. Russell to Earl Cowley.

MY LORD, *Foreign Office, February 20, 1860.*

THE proposal made to your Excellency by M. Thouvenel in reference to the affairs of Italy, as reported in your despatch of the 17th instant, has engaged the earnest attention of Her Majesty's Government, and they are sensible of the value of such intimate and friendly communications.

They cannot object to the course of laying the project of the Imperial Government before the Sardinian Government, or to its

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It was after the failure of those two attempts that Her Majesty's Government proposed 4 points, for the settlement of Italy, to France and to Austria.

The fourth of those proposals has been made known in Turin, Modena, Bologna, and Florence. It has been virtually, though not formally, accepted.

In this state of affairs it is impossible for Her Majesty's Government to recommend any other plan. The declarations of Count Rechberg convey a resolution on the part of Austria not to outstep the limits of Venetia. Those of Count Cavour are positive in abjuring any attempt to disturb Venetia, or those States which still acknowledge the authority of the Pope.

It would seem, therefore, that the next step is to order new elections in Central Italy. Whether these elections should be conducted upon principles already known and acted upon, or by universal suffrage, is a matter upon which Her Majesty's Government decline to interfere. They wish to leave Italy to herself.

With respect to Savoy, which is again mentioned in your despatch, the sentiments of Her Majesty's Government are already known to M. Thouvenel, and it is hardly necessary to say that their objections are not diminished by the present proposal.

I am, &c.

Earl Cowley. J. RUSSELL.

No. 72.—Lord J. Russell to Sir J. Hudson.

SIR, *Foreign Office, February* 20, 1860.

HER Majesty's Ambassador at Paris has given me the outline of a fresh proposition which the French Government were prepared to suggest for the settlement of the Italian question.

Without entering into detail, I think it right to acquaint you, confidentially, and for your own information alone, that this proposition contemplated the immediate annexation to Sardinia of the Duchies of Parma and of Modena; the creation of Romagna, Bologna, and Ferrara into a separate State, dependent on, but not annexed to, Sardinia; the creation of a separate State in Tuscany, under the sovereignty of a Prince of the House of Savoy, and the cession of Savoy and the County of Nice to France.

I have apprized Her Majesty's Ambassador that Her Majesty's Government cannot support this plan; and that, moreover, the objections which they have expressed to the transfer of Savoy and Nice to France are not diminished by it. I am, &c.

Sir J. Hudson. J. RUSSELL.

No. 73.—Earl Cowley to Lord J. Russell.—(Received February 22.)
(Extract.) *Paris, February 21, 1860.*

After M. Thouvenel had communicated to me, this afternoon, the despatches placed in his hands yesterday by Prince Metternich, I stated to him the substance of your Lordship's despatch of yesterday's date, replying to the proposal of the French Government contained in my despatch of the 17th instant.

M. Thouvenel expressed his acknowledgments for the friendly terms in which the decision of Her Majesty's Government was conveyed to him. He said that your Lordship had done all that he could expect in not objecting to the French proposal being laid before the King of Sardinia, or to its being imparted to the other Great Powers. He fully recognized the difficulties which prevented Her Majesty's Government from giving any support to the project.

M. Thouvenel proceeded to say that he should at once open communications with the Sardinian Government on this matter, and that he ventured to hope that if Her Majesty's Government could not support his views, they would take no step to defeat them by advising the Sardinian Government to persist in annexing Tuscany. He had, however, somewhat modified his opinion as to the course which should be pursued in Italy. He heard from all the Central States that there was a great repugnance to a second election and a second vote to decide the future position of those countries. Indeed, in Tuscany M. Ricasoli had been so adverse to it, that it required all M. de Cavour's influence to induce him to agree to it. The States seem to feel that a second vote is calculated to impugn the authority of the first. On the other hand, the Northern Courts have evinced greater dislike of this second appeal to the people than of anything else.

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north and south, if the King of Sardinia were to become the sole Sovereign of Northern and Central Italy. I believe that his Excellency will write to-night to M. de Persigny in the sense of this despatch.

Lord J. Russell. COWLEY.

No. 74.—Lord J. Russell to Earl Cowley.

MY LORD, *Foreign Office, February* 22, 1860.

I HAVE received and laid before the Queen your Excellency's despatch of the 21st instant.

With reference to the part of your conversation with M. Thouvenel reported in that despatch, which applies to the affairs of Tuscany, I have to instruct your Excellency to state to that Minister that Baron Ricasoli expressed to Sir James Hudson, on an overture made some time ago for a kingdom of Central Italy, his very decided repugnance to any plan but that of annexation to Sardinia. He has, however, agreed to a new election and a new vote; and, as far as Her Majesty's Government are concerned, there is nothing more to be done.

If Sardinia embraces of her own accord the French proposals, Her Majesty's Government have nothing to say. If she declines them, Her Majesty's Government conclude that the French army will, in the spring, evacuate Lombardy, and leave Northern Italy to itself.

It seems to Her Majesty's Government, that a young Prince of the House of Savoy planted in Tuscany would be more likely to become hereafter King of Southern Italy than the King of Sardinia himself.

I am, &c.

Earl Cowley. J. RUSSELL.

No. 75.—M. Thouvenel to Count Persigny. Paris, le 24 Février, 1860. [See Page 347.]

(Inclosure.)—M. Thouvenel to M. de Talleyrand. Paris, le 24 Février, 1860. [See Page 343.]

No. 76.—Lord J. Russell to Earl Cowley.

(Extract.) *Foreign Office, February* 27, 1860.

I SEND you two despatches, copies of which have been left with me by the Count de Persigny.

I do not think it necessary to discuss the project proposed to the Sardinian Government by the second of these despatches. That project appears to us entirely subversive of the independence of Italy, which was the professed object of the Treaty of Zurich, as declared in the preamble of that Treaty.

It was never intended by Her Majesty's Government to ask for the acceptance of the fourth proposal by Austria, Russia and Prussia. It was intended only that Great Britain and France should invite the authorities newly constituted in Central Italy to convoke the Assemblies to renew in a solemn manner their votes of August last. The Sovereigns of Austria, Russia, and Prussia, it appears to us, may take one of two courses. They may stand upon Treaties, and upon the principle of legitimacy, and may refuse to acknowledge the King of Sardinia or any other Prince than the Grand Duke as Sovereign of Tuscany, or any other authority at Bologna than the Cardinal Legate named by the Pope; or they may acknowledge the force of facts, and recognize the new Power as they recognized Louis Philippe, the Republic, and the Emperor himself.

But that they should say that the vote of August was good, but that the vote of March would be invalid; that they can admit a claim founded on the enthusiasm and acclamation of an excited people, but refuse to acknowledge the calm and deliberate decision of that same people,—such a contradiction appears to Her Majesty's Government impossible.

With respect to a Conference, the present moment does not appear to Her Majesty's Government favourable for such a meeting of the Great Powers. When Italy has decided for herself, such a Conference might be useful. But, at present, Great Britain could not assist at such a Conference, which, in her opinion, would only aggravate differences.

Earl Cowley. J. RUSSELL.

No. 77.—Lord J. Russell to Sir J. Hudson.



France, and, at his Excellency's request, placed in his hands copies of those papers.

His Excellency received this communication with much interest and apparent satisfaction. He made no observation during the communication of the correspondence, further than to express his concurrence with the views and opinions expressed in your Lordship's despatches to Earl Cowley. At that part of your Lordship's despatch of the 13th instant to Earl Cowley, refuting the argument put forth of a possible danger to France if Sardinia were to be a member of an Italian Confederation, with a population of 11,000,000 inhabitants, Count Rechberg observed that if the Duchies were annexed to Sardinia, all idea of an Italian Confederation would fall to the ground, as that measure would render it impossible.

His Excellency begged me to convey to your Lordship his best thanks for the communication of this interesting correspondence.

I have, &c.

Lord J. Russell. AUGUSTUS LOFTUS.

No. 79.—*Lord Bloomfield to Lord J. Russell.*—(*Rec. February* 27.)

My Lord, *Berlin, February* 22, 1860.

On the receipt of your Lordship's despatch of the 17th instant, by the messenger Drury, I lost no time in seeking an interview with Baron Schleinitz, when I read to his Excellency the 4 inclosures in that despatch on the subject of the annexation of Savoy and at his request I left them with him.

His Excellency desired me to thank your Lordship for this interesting communication, and observed that he fully entered into and highly approved of the reasons which have been advanced by Her Majesty's Government against the French project of annexation.

I have, &c.

Lord J. Russell. BLOOMFIELD.

No. 80.—*Lord J. Russell to Earl Cowley.*

(Extract.) *Foreign Office, February* 28, 1860.

It seems strange to Her Majesty's Government, that when Austria had taken, if not in good part, at least with good temper and in a friendly spirit, the declarations of M. Thouvenel contained in his very able despatch to M. de Moustier, the French Government should seek for new complications by bringing Russia and Prussia on the scene, and by endeavouring to disappoint the expectations of Tuscany and Romagna by new and difficult propositions.

It appears to Her Majesty's Government that if France had

been contented with the new position she had made for herself at Vienna, the affairs of Italy would have settled themselves, and the Italian people would have been contented and grateful.

Why is this prospect so suddenly overclouded? In doubt as to the future, we can only express at Turin our plain and sincere opinions.

Earl Cowley. J. RUSSELL.

No. 81.—*Earl Cowley to Lord J. Russell.*—(*Received February* 29.)
(Extract.) *Paris, February* 28, 1860.

I HAD some conversation with M. Thouvenel this morning, with reference to the proposal about to be made by the French Government to that of Sardinia.

With respect to that proposal, I observed that Her Majesty's Government conceived that it was subversive of the independence of Italy, which had been the professed object of the Treaty of Zurich, as set forth in its preamble. I then went on to explain that Her Majesty's Government had never intended to ask the acquiescence of Austria, Prussia, and Russia in the fourth proposition made by Her Majesty's Government to the Imperial Government in your Lordship's despatch of the 15th of January. Lastly, I stated the reasons why Her Majesty's Government must decline for the present to take any part in a Conference of the European Powers.

M. Thouvenel replied that he had hoped, from the report which M. de Persigny had made to him of his conversation with your Lordship, when he read to you the despatches which have given rise to your Lordship's observations, that the impression made upon your Lordship, if not favourable to the French proposal, was at all



Europe; and therefore France, after a previous communication with Her Majesty's Government, had recommended it. But she had done no more. It was for Sardinia to make her option, taking of course the responsibilities of whatever that option might be; for, in fact, the whole question was in her hands.

With regard to the assembling of an European Conference, M. Thouvenel said that he concurred with your Lordship in thinking it inexpedient under present circumstances.

Lord J. Russell. COWLEY.

No. 82.—*Lord A. Loftus to Lord J. Russell.*—(*Received March* 2.)

My Lord, *Vienna, February* 27, 1860.

I inquired to-day of Count Rechberg in what light the Imperial Cabinet viewed the important and interesting communication I had lately made to him, of the correspondence contained in your Lordship's despatch of the 17th instant, which had taken place between Her Majesty's Government and that of the Emperor of the French and of the King of Sardinia, respecting the reported annexation of Savoy to France.

His Excellency was silent, and seemed indisposed to express any opinion on the subject. I stated, however, that having communicated to him confidentially the views and opinions of Her Majesty's Government on this subject, his Excellency must consider it natural that I should inquire what effect they had produced on the Imperial Cabinet. His Excellency stated that the impression had been a good one, and that the arguments and opinions set forth by your Lordship had been duly appreciated. His Excellency confined himself at present to this very limited reply to my inquiry, as he intended to address a despatch to Count Apponyi on this subject, for communication to your Lordship. I have, &c.

Lord J. Russell. AUGUSTUS LOFTUS.

No. 83.—*Captain Harris to Lord J. Russell.*—(*Received March* 2.)

My Lord, *Berne, February* 27, 1860.

As the attitude of the Swiss Government and people must have an important bearing on the question of the proposed cession of Savoy, I have made it my business to observe that attitude closely: and having read in some of the newspapers an answer of the Federal Council to the Address of the Vaudois section of the influential society of the Helvetic which implied that they directly approved of the annexation of Northern Savoy to Switzerland, I sought an interview with the President this morning, who stated to me that those versions of the answer were purposely strained and incorre

and pointed to me, in the "Bund," a semi-official newspaper, the answer as it was really given, and which contained nothing of the kind.

The President said that, no doubt, there were many people throughout Switzerland who were fascinated by the idea of the annexation of the provinces of the Chablais, Faucigny, and the Genevois, and who would, in such a case, view with indifference the cession of the rest of Savoy to France; but that sounder heads looked more closely into the matter, and, reflecting calmly on the future, foresaw difficulties and dangers in such an arrangement which made the *status quo* infinitely preferable.

He said that, in the first place, this annexation would introduce into the Confederation a Roman Catholic element of a very bigotted character, which would increase the difficulties with which the Federal Government had to deal already.

That many persons in the Canton of Geneva were anxious for the annexation of the provinces of North Savoy to their canton, in order to increase the area of taxation, and relieve themselves from its heavy pressure, arising from the enormous outlay which has taken place lately in the city of Geneva for the construction of quays and other public improvements; but that this would engender discontent in the newly annexed provinces.

The President added, that in drawing the new military frontier, French engineer officers would doubtless be sent to act with those of Switzerland for that purpose, and that difficulties and jealousies would arise similar to those in the vexatious question in the Vallée des Dappes.

The first portion of these remarks suggested to my mind a very palpable danger, which I stated to the President, and which he had already foreseen, namely, that the province of North Savoy sub-



Switzerland thus guaranteed, interposed her mountain bulwarks between the vast armies contending in the plains of Italy, and the rest of Europe. Thousands of innocent persons, flying from the horrors of war, found refuge with their property within her frontiers.

Commerce and industry pursued their avocations even in intercourse with her three belligerent neighbours, and with the rest of Europe; and it was one of her cities which was chosen for the site of the Conferences which were to give peace to the Continent.

Of the practicability of her neutrality, proof appears in the frank admission by the Governments of the belligerent Powers at the conclusion of the war, of the honest course pursued by the Swiss Federal Council throughout its duration.

I have reported this conversation with the President of the Confederation, and have ventured on these remarks in order to place before your Lordship the very serious aspect under which the cession of any part of Savoy to France must be regarded as affecting the future independence and neutrality of Switzerland, quite apart and distinct from what is taking place in Italy.

I have, &c.

Lord J. Russell. E. A. J. HARRIS.

No. 84.—Earl Cowley to Lord J. Russell.—(Received March 2.)

(Extract.) *Paris, March 1, 1860.*

I saw M. Thouvenel for a few minutes this afternoon, after his return from the opening of the session of the Legislative bodies.

Our conversation turned upon the Emperor's Speech, and I expressed to M. Thouvenel my apprehension that His Majesty's words would not inspire in Europe the confidence which they breathed themselves.

I then passed to the paragraph of the Emperor's Speech relating to the annexation of Savoy. Remarking that His Majesty now made use of the words "réclamer" and "revendiquer," with regard to territory belonging to another Sovereign, I expressed my great regret that the promise which His Majesty had been good enough to make to me, namely, that the wishes of the Savoyards themselves should be respected, had not been alluded to by His Majesty. M. Thouvenel replied, that although this declaration was not to be found in the Emperor's Speech, His Majesty intended to abide by it.

Lastly, I inquired of M. Thouvenel what was intended by the words "versants Français des montagnes." What amount of territory did this term include? His Excellency answered that he

could not take upon himself to specify less than Savoy and the County of Nice.

Lord J. Russell. COWLEY.

No. 85.—Earl Cowley to Lord J. Russell.—(Received March 3.)

(Extract.) *Paris, March 2, 1860.*

M. THOUVENEL inquired of me this afternoon, to what despatch your Lordship alluded in your speech on Tuesday evening to the House of Commons, on the question of the annexation of Savoy, as not having been answered by him. On my explaining to his Excellency that they were the despatches with which your Lordship had authorized me to furnish him with copies, had he expressed a desire to that effect, he said that he had so fully explained to me the policy of the Imperial Government with reference to this question on a former occasion, that he had had nothing to add to that explanation when I read him your Lordship's despatches, and had, therefore, considered it unadvisable to continue a polemic which was not likely to lead to any result. But since your Lordship seemed desirous of having an answer, he would now request me to transmit him copies of the despatches in question, and he would reply to them through M. de Persigny. He need hardly add, he said, that his reply would be of the most friendly nature; that he should thank Her Majesty's Government for the advice which they had tendered; and he should express the hope that the Imperial Government by frank explanations to the Great Powers would be able to convince them of the justice and fairness of the slight territorial concessions asked for by France. Copies of the two despatches will be sent to M. Thouvenel as soon as they are prepared.

Lord J. Russell. COWLEY.



Holiness. Whether he is or is not, the laws on the Church and on education which the Pope's Vicar would sanction, would be directly opposed to the policy of the Pope, and perhaps to the canon law. Then, if any discontent should arise at any time, the Pope might take upon himself to annul the delegation of his Vicar, and absolve his subjects from their obedience to his usurped authority.

Then, again, with regard to Tuscany. The indication of a Prince of the House of Savoy inserted in the original project, is omitted, and every resource of intrigue will be set at work to obtain for Tuscany the powerful protection of a Prince of the House of Austria, or of the Imperial family of France.

With respect to universal suffrage, every nation ought to judge for itself whether that franchise is suitable for itself or not. France has judged for herself that it is suitable to the state of France, and no one thinks of questioning that decision. But Tuscany has lived under other laws whose utility has been generally recognized. As it appears, however, that Tuscany has now accepted universal suffrage, it is not necessary to carry this discussion any further.

Our object has been that so well stated by M. de Thouvenel in his despatch to M. Moustier in these words:—"L'Italie pendant des siècles a été un champ ouvert à une lutte d'influence entre la France et l'Autriche. C'est ce champ qu'il faut à jamais fermer. Si l'une des deux Puissances anciennement rivales faisait un sacrifice qui doit profiter directement à l'autre, si la domination de l'Italie, changeant seulement de mains, devait encore nous appartenir pour un temps, la question se présenterait sous un aspect qui rendrait toute discussion oiseuse et stérile. Ce n'est pas ainsi que le débat est posé. La France ne cherche pas à se substituer à l'Autriche en Italie; c'est l'Italie elle-même qu'il s'agit de constituer comme un intermédiaire, comme une sorte de terrain désormais impénétrable à l'action tour à tour prédominante et toujours précaire de l'une ou l'autre des deux Puissances."

With regard to the proposition for the annexation of Savoy, I have already given in other despatches the opinion of Her Majesty's Government.

Earl Cowley. J. RUSSELL.

No. 87.—Sir J. Hudson to Lord J. Russell.—(Received March 5.)

MY LORD, *Turin, March 2, 1860.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 27th ultimo, inclosing copies of communications from the Ambassador of France at the Court of Her Majesty, containing the propositions of his Government for the settlement of the Italian question, and a copy of a despatch which you have

addressed to Her Majesty's Ambassador at Paris upon the subject of those propositions.

Baron de Talleyrand presented these propositions to Count Cavour on the 28th ultimo, and I now have the honour to inclose herewith a copy of the answer which that Minister has returned to hem.

I have, &c.

Lord J. Russell. JAMES HUDSON.

(*Inclosure.*)—*Count Cavour to M. Nigra.—Curiale, le 29 Février*, 1860. [See Page 350.]

No. 88.—*Lord Bloomfield to Lord J. Russell.*—(*Received March* 5.)

(Extract.) *Berlin, March* 3, 1860.

I HAVE the honour to inform your Lordship that Baron Schleinitz has told me that he availed himself of a visit which he received this morning from Prince de la Tour d'Auvergne to allude to the subject of the proposed annexation of Savoy and Nice to France.

His Excellency appears to have stated to the French Minister that in Germany there was but one opinion of determined opposition to the project; that Prussia had hitherto relied on the assurances contained in the Manifesto issued by the Emperor Napoleon at Milan on the conclusion of the war, that he sought no territorial aggrandizement for France: but that as the question had been mentioned in His Imperial Majesty's Speech to the Legislative Assembly he could no longer be silent, and that he trusted no step would be taken connected with the subject until it had been discussed by the Great Powers.

Baron Schleinitz seems to have also observed to the French



felt in approaching it, and that the French Government had therefore avoided a discussion of the subject.

Before leaving Baron Schleinitz, his Excellency said to me that the policy of Prussia was decidedly opposed to the annexation, and that he thought France might be called upon, at all events, to take no further step in the matter until a Conference were held.

Lord J. Russell. BLOOMFIELD.

No. 89.—*Lord J. Russell to Earl Cowley.*

My Lord, *Foreign Office, March* 6, 1860.

M. de Persigny called upon me to-day, and read to me a despatch of M. Thouvenel, on the subject of Savoy, in answer to my despatch to your Lordship of the 13th ultimo.

M. Thouvenel directed M. de Persigny to leave me a copy of this despatch, if I desired it; but as there was nothing new in the arguments, although very ably put, and as I did not wish to continue a barren controversy, I did not ask for a copy.

I wish your Lordship, however, to ascertain from M. Thouvenel in what manner the promise of the Emperor that the Great Powers shall be consulted is to be carried into effect. Is there to be a previous vote in Savoy and in Nice? If that vote is unfavourable to separation, will the project fall to the ground? If it is favourable, will the proposed cession by the King of Sardinia, of Savoy and Nice be submitted for consideration to the Great Powers?

To what do the terms "réclamer" and "revendiquer," in the Emperor's Speech, allude? Are they intended to apply to the term between 1814 and 1815, or to the period between 1792 and 1814?

I am, &c.

Earl Cowley. J. RUSSELL.

No. 90.—*Lord J. Russell to Earl Cowley.*

(Extract.) *Foreign Office, March* 6, 1860.

I have received and laid before the Queen your Excellency's despatch of the 1st instant.

Her Majesty's Government approve the language which you held to M. Thouvenel respecting the Emperor's speech.

Earl Cowley. J. RUSSELL.

No. 91.—*Mr. Corbett to Lord J. Russell.*—(*Received March* 8.)

My Lord, *Florence, March* 2, 1860.

I informed your Lordship by telegraph yesterday that the population of Tuscany has been invited to declare, by universal suffrage, whether they desire the union of Tuscany to Piedmont or the formation of a separate Kingdom; and I have now the honour

to inclose a copy and translation of the Decree on this subject, signed by all the Ministers.

Every male Tuscan subject above the age of 21 years, and in the enjoyment of civil rights, is called upon to vote for one or the other of the above-mentioned propositions. The balloting, by means of written or printed voting-tickets, is to take place on the 11th and 12th instant. The army will vote separately. On the 15th instant, the Court of Cassation will examine, at a public sitting, the various reports as to the votes taken, which will be forwarded to that Court by the Government subaltern authorities of the different Departments, and will transmit the result immediately to the Minister of Justice.

It is understood that the same propositions will be submitted separately to the States of Parma, Modena, and Romagna, and that the same mode of voting will be adopted in each of them.

The first proposal submitted—as to union with Piedmont—is clear enough; but the alternative of a separate Kingdom is so vaguely expressed, that those who might be in favour of preserving the autonomy of Tuscany will probably be prevented from voting in favour of it, from a fear that its adoption might result in the return of the Grand Duke; and rather than do anything which would tend to such a result, they would vote for the former proposition, although it would sanction an union of which they disapprove.

I have, &c.

Lord J. Russell. EDWIN CORBETT.

(*Inclosure.*)—*Decree.*

(Translation.) *Florence, March* 1, 1860.

In the reign of His Majesty Victor Emmanuel.

[redacted]

in Europe, having the assurance that whatever the popular vote may be, it will be respected, and the respect will be enforced;

Considering that in this way all doubt will be dissipated in Europe, relative to the complete freedom of the former votes, and to the sincerity and firmness of the national will;

In virtue of the powers conferred on the Assembly for carrying its wishes into effect,

Decrees:

ART. I. The Tuscan people is solemnly called together in Assemblies [Comitiæ] on the 11th and 12th days of March, 1860, to declare their wishes on the two propositions following: "Union with the Constitutional Monarchy of King Victor Emmanuel," or, "Separate Kingdom."

II. All Tuscans of the full age of 21 years, and in the possession of civil rights, are called upon to give their votes.

III. The Mayors ("Gonfalonieri") and Aldermen ("Collegi dei Priori") shall, previously to the 11th day of March, make out a list of all persons who have been for 6 months resident in the commune, and have completed their 21st year.

For this purpose they shall send trustworthy persons to the parishes included in their respective communes, to make abstracts from the parish registers ("libri dello stato di anime") of each parish.

Non-Catholics who are citizens of Tuscany shall go in person to register themselves at the Communal office of the place where they reside.

In regard to Jews, the Chanceries of the Universities shall transmit registers of the persons who are entitled to vote as required to the Mayors of the communes where they reside.

IV. Persons not entered on the list, who shall prove that they fulfil the conditions required by Article II, shall be admitted to vote.

V. The vote shall be given by ticket, with secret voting.

VI. The ballot shall be taken at the chief town of every commune in the two days above mentioned, namely, the 11th and 12th days of March, from o'clock in the morning till 5 o'clock in the afternoon.

The Mayors shall exhort the citizens to give their votes by notices posted up in every parish.

VII. The Mayors are at liberty to divide the community ("collegio") into any number of sections they may consider expedient.

VIII. The Mayors shall require 5 Common Councillors, or in default thereof, 5 respectable citizens, to preside over each of the sections. Two of them, at least, shall always be present at the

voting. They may obtain the assistance of secretaries appointed by themselves.

IX. Every voter shall put into the urn provided for the purpose a written or printed ticket expressing his wishes in this form: "Union with the Constitutional Monarchy of King Victor Emmanuel;" or in this: "Separate Kingdom."

Tickets in any other form whatever are null.

X. The voter, before putting his ticket into the urn, shall declare his name and surname, which shall be written down by one of the Councillors composing the chair, or by the secretary.

XI. At 5 o'clock P.M. of the 11th of March, the urn shall be publicly sealed by the Councillors presiding over the Assembly, who are responsible for the custody thereof, and for the unbroken condition of the seals during the night.

XII. The Common Councillors shall, on both days, make a minute of the voting ("scrutinio").

XIII. When the voting of the 12th day of March is concluded, the sealed urns, together with the minutes drawn up, shall be accompanied by two, at least, of the Councillors to the Pretura, in whose civil jurisdiction the commune is included, and shall be given over to the Prætor (Pretore), who shall, together with them, and in public, count the votes.

XIV. Officers, under-officers, and privates, shall vote in the respective localities, in presence of a Council composed of three officers of the highest rank, and of the two junior officers of the lower rank. When the voting is concluded, the sealed urn, together with the minutes made, accompanied by two officers at least, shall be conveyed to the Pretura in whose jurisdiction the voting has taken place, for the purposes mentioned in Article XIII.



("Ministero"), and shall transmit the same immediately to the Minister of Grace and Justice.

XVII. All the laws and ordinances which regulate the Electoral Assemblies for Common Councils, with the object of insuring order and the liberty of voting, are applicable to the present Assemblies.

XVIII. The Minister of the Interior, and the Minister of Grace and Justice, are charged with the execution of the present Decree.

B. RICASOLI.
C. RIDOLFI.
E. POGGI.
R. BUSACCA.
V. SALVAGNOLI.
R. CADORNA.

E. Poggi.
Celestino Bianchi.

No. 92.—*Count Cavour to M. Nigra.*—(*Communicated to Lord J. Russell by Count Persigny, March* 10.)
Turin, le 2 *Mars*, 1860. [See Page 357.]

No. 93.—*Earl Cowley to Lord J. Russell.*—(*Received March* 10.)
(Extract.) *Paris, March* 9, 1860.

I was surprised, on calling this morning on M. Thouvenel, to find that he had been for two days in possession of M. de Cavour's reply to that part of his Excellency's despatch of the 24th ultimo which related to the annexation of Savoy to France.

I proceeded, in compliance with the instructions contained in your Lordship's despatch of the 6th instant, to ask his Excellency in what manner the promise of the Emperor, that the Great Powers should be consulted on this matter, is to be carried into effect.

M. Thouvenel replied, that the Sardinian Government having declared that they would not object to the annexation of Savoy to France, if such should be the wish of the Savoyards themselves, he was about to draw up a despatch which would be addressed to the Imperial Representatives at the Courts, parties to the Treaties of 1815, explaining the wishes of the Imperial Government, and the reasons why it was considered that these wishes should be acceded to. His Excellency thought that this despatch would be sent off on Tuesday or Wednesday next.

With regard to your Lordship's second question—whether there should be a previous vote in Savoy and Nice—M. Thouvenel replied that the Imperial Government adhered to the principle of consulting the wishes of the inhabitants of those two countries. In what manner and at what period this appeal was to be made, he could not now state; but, as *at present* advised, he should say that the

communication to the Powers would precede the vote. He reserved to himself, however, to act in this matter as circumstances might require. Should the vote be unfavourable, he had no hesitation, in reply to your Lordship's third question, in stating that the project of annexation would fall to the ground. Your Lordship's fourth question is answered under the first.

To your Lordship's inquiry as to the period to which the terms "réclamer" and "revendiquer," employed in the Emperor's Speech, allude, M. Thouvenel replied, to no particular period whatever. The Emperor considered that the new order of things about to be established in Italy gave him the right to protect the French frontier; and it was in virtue of this right, which it seemed to him he possessed, that His Majesty made use of the words in question.

In the course of the conversation M. Thouvenel, in reply to an observation which fell from me, said that the Imperial Government would of course receive with due consideration, and scrupulously examine, any arguments or advice which might be given in answer to the communication which he was about to make to the Great Powers.

Lord J. Russell. COWLEY.

No. 94.—M. Thouvenel to Count Persigny.—(Communicated to Lord J. Russell by Count Persigny, March 15.)

M. LE COMTE, *Paris, le 13 Mars*, 1860.

L'EMPEREUR dans son discours aux Grands Corps de l'Etat, à l'ouverture de la session Législative, a fait connaître sa pensée dans la prévision d'un remaniement d'un territoire considérable de l'autre côté des Alpes, et annoncé l'intention de soumettre à la sagesse et à l'équité de l'Europe une question qui n'est pas soulevée par l'ambition de la France, mais en quelque sorte posée par les événe-

[redacted]

Bien que la possession de la Lombardie fortifiât le Piémont sur les Alpes, nous faisions, sans nulle hésitation, taire notre intérêt particulier, et loin de favoriser le développement d'un état de choses qui pouvait nous fournir de légitimes et pressantes raisons de réclamer des garanties, nous employions, l'Europe le sait, toute notre influence à réaliser, dans leur teneur littérale, les dispositions des Traités qui réservaient le maintien des circonscriptions territoriales dans le centre de l'Italie.

Je n'ai pas à revenir aujourd'hui sur les circonstances qui ont empêché le succès de nos efforts. Le Gouvernement de Sa Majesté Britannique a été le premier à en apprécier le caractère. Il me suffira de rappeler que la nécessité de nous préoccuper avant tout, et dans l'intérêt général, de l'établissement d'un ordre de choses définitif dans la Péninsule a pu seule nous déterminer à rechercher dans des combinaisons différentes de celles que nous avions essayé infructueusement de faire triompher, le moyen de régler les questions pendantes.

Une situation nouvelle s'imposait dès lors à notre prévoyance, et sans nous mettre en opposition avec la politique qui a constamment inspiré les actes comme le langage de l'Empereur, nous avions néanmoins à considérer le préjudice que de nouveaux arrangements en Italie seraient susceptibles de porter à nos propres intérêts.

Il est impossible de contester que la formation d'un Etat considérable, possédant à la fois les deux versants des Alpes, ne soit un événement d'une haute gravité au point de vue de la sûreté de nos frontières. La situation géographique de la Sardaigne acquiert une importance qu'elle ne pouvait avoir quand ce Royaume comptait à peine 4,000,000 d'âmes, et se trouvait refoulé en quelque sorte par tout un ensemble de Conventions en dehors de la Péninsule. Avec un développement qui doit presque tripler sa population et ses ressources matérielles, la possession de tous les passages des Alpes lui permettrait, dans le cas où ses alliances en feraient jamais notre adversaire, d'ouvrir l'accès de notre territoire à une armée étrangère ou de troubler avec ses seules forces la sécurité d'une partie importante de l'Empire, en interceptant notre principale ligne de communication commerciale et militaire. Réclamer des garanties contre une éventualité dont l'échéance si éloignée sans doute que nous ayons le droit de la supposer, n'affaiblit point le péril, c'est simplement obéir aux considérations les plus légitimes, comme aux données les plus ordinaires de la politique internationale, qui n'a pris à aucune époque la reconnaissance et les sentiments pour la base unique des rapports des Etats.

Ces garanties, d'ailleurs, sont-elles faites pour porter ombrage à aucune Puissance? Ne sont-elles pas au contraire dans les conditions d'une juste pondération des forces, et surtout indiquées par

la nature des choses, qui a placé notre système de défense au pied du versant occidental des Alpes ?

A diverses périodes de l'histoire depuis deux siècles, notamment lorsqu'il s'est agi de régler éventuellement la succession d'Espagne, et plus tard quand la succession d'Autriche s'est ouverte, on a discuté des combinaisons qui étendaient les possessions du Piémont en Italie et lui faisaient acquérir soit la Lombardie, soit d'autres territoires contigus. Dans ces concessions, beaucoup moins vastes assurément que celle dont il est question aujourd'hui, l'annexion de la Savoie et du Comté de Nice a toujours été considérée par plusieurs des principales Puissances de l'Europe comme une compensation nécessaire pour la France. Bien sûr que ma pensée ne saurait donner lieu à de fausses interprétations, je n'éprouve nul embarras à citer un précédent d'une date plus récente. Ne peut-il être permis de demander aussi des renseignements à l'histoire de notre siècle sans évoquer des souvenirs irritants que répudient les générations actuelles ? Je rappellerai donc que dans un moment où l'Europe était peu disposée cependant à user de modération à l'égard de la France, elle reconnaissait, du côté des Alpes, les nécessités de notre situation géographique et trouvait unanimement équitable de nous laisser une partie du territoire devenu maintenant bien plus indispensable à notre sûreté. Ce n'est que sous l'impression des événements de l'année suivante que cette clause fut annulée. L'Empereur, en arrivant au Trône, a spontanément déclaré qu'il prenait pour règle de ses rapports avec l'Europe le respect des Traités conclus par les Gouvernements précédents, et c'est un principe de conduite auquel Sa Majesté se fera toujours une loi de rester fidèle. Mais on ne saurait meconnaître le caractère exceptionnel des circonstances qui nous déterminent à demander qu'une



un demi-siècle; bien plus, nous l'acceptions encore au retour d'une campagne en Italie, qui aurait facilement pu nous fournir l'occasion de la changer; mais les conditions que nous avons scrupuleusement respectées afin de n'apporter aucun trouble dans nos relations internationales, devons-nous admettre qu'elles soient aggravées, et l'Europe de son côté peut-elle trouver juste qu'au poids dont elles pesaient déjà sur nous, vienne s'ajouter celui d'un Etat dont la force aura triplé dans le cours d'une année? En provoquant la modification des Traités sur ce point, nous nous bornons en quelque sorte à demander qu'une de leurs stipulations n'acquierre pas, en dehors de la volonté mêmes des Puissances qui les ont souscrites, une portée plus grave et un sens plus désavantageux.

Je me hâte d'ajouter que le Gouvernement de l'Empereur ne veut tenir les garanties qu'il réclame que du libre assentiment du Roi de Sardaigne et des populations. La cession qui lui sera faite demeurera donc exempte de toute violence comme de toute contrainte; notre ferme intention, en outre, est de la combiner, pour ce qui concerne les territoires de la Savoie soumis à une neutralisation éventuelle, de manière à ne léser aucun droit acquis, à ne porter atteinte à aucun intérêt légitime.

D'accord avec nos convenances comme avec la volonté du Roi de Sardaigne, et sans contradiction avec les intérêts généraux de l'Europe, la cession de la Savoie et du Comté de Nice à la France, Monsieur, ne soulève pas de questions qui soient incompatibles avec les règles les mieux établies et les plus rigoureuses du droit public. Si le caractère, la langue, et les habitudes des populations destinées à être réunies à la France nous assurent que cette cession n'est pas contraire à leurs sentiments; si nous pensons que la configuration du sol a confondu leurs intérêts commerciaux, comme leurs intérêts politiques, avec les nôtres; si nous disons enfin que les Alpes constituent la barrière qui doit éternellement séparer l'Italie de la France, nous nous bornons à en conclure que la délimitation nouvelle à établir entre le Piémont et nous trouve sa sanction dans la force des choses. Ce n'est point au nom des idées de nationalité, ce n'est point comme frontières naturelles que nous poursuivons l'adjonction de la Savoie et du Comté de Nice à notre territoire; c'est uniquement à titre de garantie, et dans des circonstances telles que l'esprit ne conçoit pas qu'elles se reproduisent nulle part. En un mot, étrangères à toute vue d'agrandissement, et encore plus à toute idée de conquête, notre unique objet est d'obtenir, au nom des principes de droit public, que les Traités ne soient point rendus pour nous plus onéreux sur un point où ils avaient été combinés dans des dispositions que le temps a, je l'espère, contribué à effacer, et que comme sûreté contre les dangers que le développement du Piémont peut entraîner pour nous, dans l'avenir, notre frontière

soit fixée, à l'aide d'une entente avec le Roi de Sardaigne suivant les besoins de la défense commune.

Le Gouvernement de l'Empereur, plein de confiance dans l'autorité des considérations qu'il avait à faire valoir, est entré en rapports avec le Cabinet de Turin au sujet de cette importante question. Vous savez dans quels termes nous nous en sommes ouverts avec lui. Vous connaissez également sa réponse, et vous aurez vu qu'accueillant les observations que nous lui avons présentées, il se montre disposé, au prix d'un sacrifice volontaire, à y donner la suite qu'elles comportent. Je me plais à espérer que les raisons de nécessité et de droit qui déterminent notre conduite seront, à plus forte raison, appréciées par le Gouvernement Britannique avec les sentiments d'équité qui l'inspirent et dans l'esprit amical qui dirige ses relations avec la France. Il comprendra que poursuivant des garanties si légitimes, nous entrions en arrangement avec la Sardaigne pour convenir des actes et des dispositions nécessaires. Par des circonstances le plus souvent indépendantes de leur volonté, les Gouvernements n'ont pas toujours réussi à fonder leurs combinaisons sur des bases réunissant les conditions d'une véritable stabilité, qui ne sont autres que celles de la justice éclairée par la saine intelligence des intérêts réciproques ; et c'est ainsi que les actes destinés à consacrer la paix n'ont eu, parfois, pour résultat que de déposer dans le système politique de nouveaux germes de difficultés et des complications. La combinaison dont de si justes et si puissants motifs nous autorisent aujourd'hui à désirer la réalisation, est au contraire si conforme aux intérêts généraux qu'elle est nécessairement appelée, nous en avons la ferme confiance, à faire partie de tout système sagement conçu et ordonné avec prévoyance. Elle trouve donc sa légitimité dans l'absence de



France to the wisdom and equity of Europe; and the accompanying despatch—communications similar to which have no doubt been made to the other Great Powers—purports to have been written in redemption of that pledge.

M. Thouvenel's despatch explains the reasons on account of which the Imperial Government makes claim to the cession of Savoy and of Nice, and it states the principles upon which the French Government considers itself justified in making that claim.

It is with great regret that Her Majesty's Government feels obliged to say that they cannot admit the force of those reasons, and that they are unable to subscribe to the justice of those principles.

M. Thouvenel adverts to the events of the last 12 months in support of his arguments. Her Majesty's Government would wish shortly to advert also to those events.

The immediate cause of the war which broke out in Northern Italy in the spring of last year was the invasion of the Piedmontese territory by the Austrain army.

The Emperor of the French marched a large force to the assistance and support of his ally the King of Sardinia.

The declarations which His Imperial Majesty, upon several occasions, made as to his intentions, and as to the objects of the war, led the Powers of Europe to believe that the war was undertaken without any view to acquisition of territory by France, and that its object was to restore Italy to herself, and to solve, in favour of Italy, that question which it was alleged the conduct of the Austrian Government had brought to an issue, namely, whether Austria should have dominion up to the foot of the Alps, or whether Italy should be free from the Mediterranean to the Adriatic.

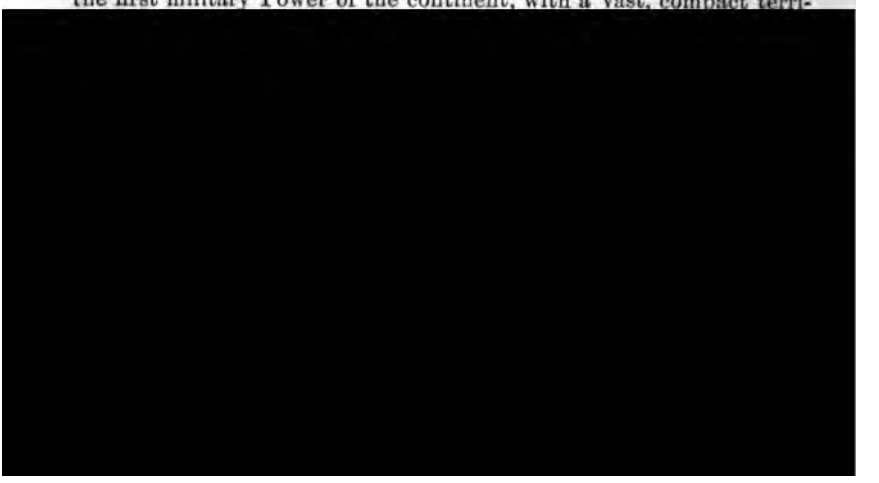
M. Thouvenel says, that solemn acts, freely concluded after a campaign which had been successful for the arms of France, are an irrefragable proof that the French Government had not for its object any territorial aggrandisement when it was led by the force of events to interfere in the affairs of Italy. But he adds, that though the French Government could not but foresee hypothetical circumstances in which disinterestedness would have to give way to prudence, the Treaties of Villafranca and of Zurich entirely shut out such a contingency.

This statement seems to explain the assurance given to your Excellency by Count Walewski in July, 1859, when the Count being asked as to the truth of rumours that, notwithstanding the declarations and proclamations of the Emperor, there was a negotiation on foot for the cession of Savoy to France, asserted that if such a scheme had ever been entertained, it had been then entirely abandoned.

Her Majesty's Government are led to infer from M. Thouvenel's despatch, that the hypothetical contingency to which he alludes was the conquest of Venetia by France, and its transfer to Piedmont, and that in such case it had been contemplated that Savoy should be demanded by France; but that the agreement of Villafranca and the Treaty of Zurich having left to Austria the possession of Venetia, the idea of a cession of Savoy to France, which it now appears had been entertained, was given up, as stated by Count Walewski.

M. Thouvenel, however, goes on to say, that combinations in Central Italy, different from those which the French Government had fruitlessly laboured to bring about, compelled the French Government to consider the injury which new arrangements in Italy might carry with them to the interests of France; and he proceeds to argue, that when Sardinia, by acquisitions of territory in Central Italy, was about to increase her population from 4,000,000 to three times that amount, it became necessary, for the security of France, that Savoy should be ceded to her, in order that she might have in her own hands, the northern slopes of the Alps. The new danger to which M. Thouvenel alleges that France would thus be exposed would be invasion from Sardinia alone, or from Sardinia acting as a member of a Confederation of hostile Powers.

But Her Majesty's Government would beg to observe, that to imagine that Sardinia, even with a population of 12,000,000, would ever think of invading France, with a population of 36,000,000, is to suppose that which amounts to a moral impossibility. Sardinia, so augmented, will become a respectable State, capable of attaining a great degree of internal prosperity, and sufficiently strong to defend herself against any other Italian Power; but that the French Empire, the first military Power of the continent, with a vast, compact terri-



it be for common defence against aggressions on the part of France, and that, therefore, France has it at all times in her own power to prevent the formation of any such Confederacy. There is no Power in Europe that does not wish to maintain friendly relations with France, and there is none that could hope to reap any advantage from a voluntary and unprovoked rupture with so powerful a State.

But the chances of Sardinia becoming an instrument of such a Confederacy have been diminished by the events of late years, and by the new arrangements of Northern and Central Italy.

Till within the last 15 years the Government of Sardinia was swayed by the influence of Austria, and might have been supposed to be likely, in the event of a war between Austria and France, to give passage through Savoy to any Austrian force which might have wished to enter France in that direction; but of late years Sardinia has broken away from her connection with Austria, and has looked to France, and not in vain, for friendship and support. Sardinia, therefore, is less likely than ever willingly to give passage to a hostile force wishing to enter France, and it is obvious that Sardinia, increased in strength while the Austrian frontier is thrown back to the Mincio, is less likely than when she was much weaker, and when the Austrian frontier was on the Ticino, to yield on compulsion that passage to Austrian troops which she would not concede of her own free will.

We may consider, therefore, as groundless, the apprehension that Sardinia, retaining possession of Savoy, might open a passage through that province into France to the troops of a hostile Confederacy.

It seems, then, to Her Majesty's Government, that the argument in favour of the annexation of Savoy to France, founded on the assumed insecurity of the French territory bordering upon Savoy, falls to the ground when it comes to be fairly examined.

M. Thouvenel says that this demand for the cession of Savoy to France ought not to give umbrage to any Power; that it is founded on a just balance of forces, and is especially pointed out by the nature of things, which has placed the French system of defence at the foot of the western slopes of the Alps.

But Her Majesty's Government must be allowed to remark that a demand for cession of a neighbour's territory made by a State so powerful as France, and whose former and not very remote policy of territorial aggrandizement brought countless calamities upon Europe, cannot well fail to give umbrage to every State interested in the balance of power and in the maintenance of the general peace. Nor can that umbrage be diminished by the grounds on which the claim is founded; because, if a great military Power like France is to demand the territory of a neighbour upon its own

theory of what constitutes geographically its proper system of defence, it is evident that no State could be secure from the aggressions of a more powerful neighbour; that might and not right would henceforward be the rule to determine territorial possession; and that the integrity and independence of the smaller States of Europe would be placed in perpetual jeopardy.

But M. Thouvenel appeals to historical precedents in support of the claim now made.

Her Majesty's Government will not enter into an examination of what took place in regard to the succession to the Throne of Spain, or in regard to the succession of the Throne of Austria, because the transactions of those periods have no practical applicability to the present state of European affairs; but with regard to the later transaction to which M. Thouvenel adverts, namely, the arrangements of the Treaty of 1814, Her Majesty's Government would beg to observe that the arrangements of that Treaty by no means bear out the claim now made by France, and that it cannot be with reference to the stipulations of the Treaty of 1814, that the demand for the cession of Savoy and of the County of Nice can be termed by France a "revendication." It is to be observed with regard to the term "revendication," that it is stated that "la revendication a lieu lorsqu'on réclame une chose à laquelle on prétend avoir droit."

Now, the arrangements of the Treaty of 1814 were of short duration, and having been superseded by those of the Treaty of 1815, they cannot be appealed to as the foundation of any right to be claimed by France.

But the Treaty of 1814 did not give either Savoy or the County of Nice to France.

[redacted]

nationality, nor upon that of natural frontiers, that the cession of Savoy and of Nice is demanded, those arguments cannot fail to give rise to the most serious reflections. Her Majesty's Government, then, would beg to submit that no case has been made out to justify this cession on the ground of necessary defence for France, and that this cession would most unjustly, and in violation of Treaty engagements, materially weaken a defensive arrangement which united Europe has provided as a security for the neutrality and integrity of Switzerland.

Great Britain has no direct interest of her own in this matter, and it is from no unfriendly feeling towards France that her remonstrances on this subject have proceeded. Her Majesty's Government, indeed, are deeply impressed with the conviction that any territorial advantage which France might gain by the proposed annexation would be far more than counterbalanced by the distrust with which it would inspire the other States and Powers of Europe.

The calamities which overspread by turns almost every part of the continent of Europe during the closing years of the last and the early years of the present century, are still fresh in the memory of mankind: their renewal would, indeed, be a deplorable misfortune; and it cannot be surprising that the attention of nations and of their rulers should be directed, with anxious solicitude, to events which have a bearing both on the interests of the present and on the destinies of the future.

Your Excellency will read and give a copy of this despatch to M. Thouvenel. I am, &c.

Earl Cowley. J. RUSSELL.

No. 96.—Lord J. Russell to Earl Cowley.

My Lord, *Foreign Office, March* 22, 1860.

In giving to M. de Thouvenel a copy of the despatch sent herewith, in reply to the communication made to me on the 15th instant by the Count de Persigny of M. Thouvenel's despatch of the 13th instant, your Excellency will state to him that Her Majesty's Government propose to treat further, in a subsequent communication, the portion of Savoy the neutrality of which is guaranteed by the Great Powers by the Treaties of 1814 and 1815, together with that of Switzerland. But, before doing so, Her Majesty's Government must consult other Powers, parties to the Treaties of Guarantee. I am, &c.

Earl Cowley. J. RUSSELL.

No. 97.—Captain Harris to Lord J. Russell.—(Received March 23.)

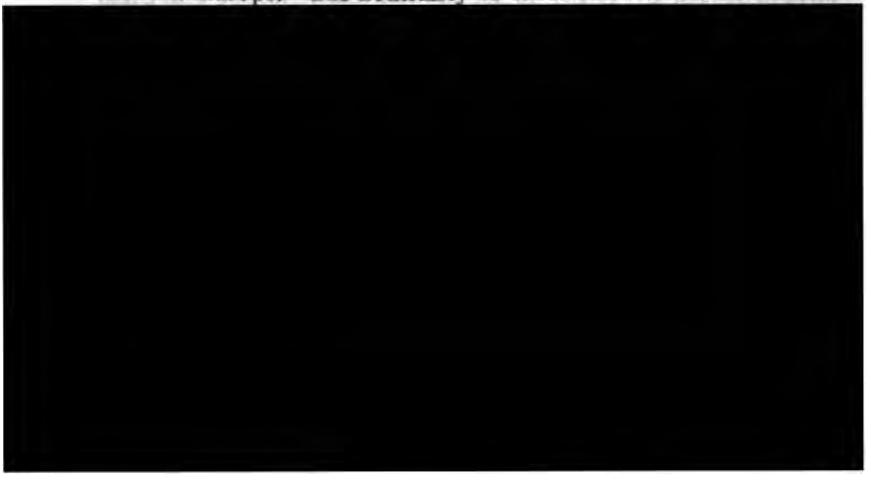
My Lord, *Berne, March* 20, 1860.

I lose not a moment in transmitting the inclosed sealed document

if necessary, through the Valais, and that no armed troops of any other Power shall either traverse or be stationed in those provinces and territories, except such troops as the Swiss Confederation shall think proper to place therein.

It is plain that these engagements about Savoy, to which France is a party, were intended as a security for Switzerland against danger coming from France; but what would become of that security if Savoy were annexed to France, and if the very Power against which this access to Switzerland has been barred, should become the owner of the barrier thus erected for the protection of the Confederation? It is, indeed implied in the despatch of M. Thouvenel, that France, in taking Savoy, would accept also the engagements by which the King of Sardinia is bound, in regard to the neutralized portion of that country; but it is no disparagement to France to say that neither Switzerland nor the Powers of Europe could consider such an arrangement as affording to the integrity and neutrality of the Swiss Confederation that security which the above-mentioned stipulations of the Treaty of Vienna are calculated to afford: and Her Majesty's Government contend that it is not competent for France and Sardinia, by any compact between them, and without the consent of the other States of Europe, so materially to impair, as the proposed cession of Savoy would do, an element of security which a great European compact has provided for a State whose independence is an object of European concern.

Nor can it be for the well-understood interest of France herself to break down the barriers by which the neutrality of Switzerland is secured. It must surely be acknowledged that the neutrality of Belgium at the northern, and of Switzerland at the southern extremity of the eastern frontier of France, is of advantage to her, as well as to Europe. The neutrality of those two States narrows the



nationality, nor upon that of natural frontiers, that the cession of Savoy and of Nice is demanded, those arguments cannot fail to give rise to the most serious reflections. Her Majesty's Government, then, would beg to submit that no case has been made out to justify this cession on the ground of necessary defence for France, and that this cession would most unjustly, and in violation of Treaty engagements, materially weaken a defensive arrangement which united Europe has provided as a security for the neutrality and integrity of Switzerland.

Great Britain has no direct interest of her own in this matter, and it is from no unfriendly feeling towards France that her remonstrances on this subject have proceeded. Her Majesty's Government, indeed, are deeply impressed with the conviction that any territorial advantage which France might gain by the proposed annexation would be far more than counterbalanced by the distrust with which it would inspire the other States and Powers of Europe.

The calamities which overspread by turns almost every part of the continent of Europe during the closing years of the last and the early years of the present century, are still fresh in the memory of mankind: their renewal would, indeed, be a deplorable misfortune; and it cannot be surprising that the attention of nations and of their rulers should be directed, with anxious solicitude, to events which have a bearing both on the interests of the present and on the destinies of the future.

Your Excellency will read and give a copy of this despatch to M. Thouvenel. I am, &c.

Earl Cowley. J. RUSSELL.

No. 96.—Lord J. Russell to Earl Cowley.

My Lord, *Foreign Office, March 22, 1860.*

In giving to M. de Thouvenel a copy of the despatch sent herewith, in reply to the communication made to me on the 15th instant by the Count de Persigny of M. Thouvenel's despatch of the 13th instant, your Excellency will state to him that Her Majesty's Government propose to treat further, in a subsequent communication, the portion of Savoy the neutrality of which is guaranteed by the Great Powers by the Treaties of 1814 and 1815, together with that of Switzerland. But, before doing so, Her Majesty's Government must consult other Powers, parties to the Treaties of Guarantee. I am, &c.

Earl Cowley. J. RUSSELL.

No. 97.—Captain Harris to Lord J. Russell.—(Received March 23.)

My Lord, *Berne, March 20, 1860.*

I lose not a moment in transmitting the inclosed sealed

addressed to your Lordship, together with the copy of a despatch from the President of the Swiss Confederation, requesting me to forward it.

The Federal Council decided yesterday on this step, the project of which I intimated to your Lordship in my telegram on Sunday.

The intervening time has been occupied in drawing up copies.

I have, &c.

Lord J. Russell. E. A. J. HARRIS.

(*Inclosure* 1.)—*The Swiss Federal Council to Captain Harris.*

Berne, le 19 *Mars*, 1860.

En présence de la situation actuelle de la question de Savoie, le Conseil Fédéral estime devoir adresser aux Hautes Puissances l'exposé qu'il a l'honneur d'accompagner d'une copie vidimée pour votre information personnelle.

Il ajoute la prière de bien vouloir faire parvenir cet exposé au Gouvernement de Sa Majesté Britannique ; et il saisit, &c.

Au nom du Conseil Fédéral,

Le Président de la Confédération, FREY-HEROSEE.

Le Chancelier de la Confédération, SCHIESS.

Captain Harris.

(*Inclosure* 2.)—*The Swiss Federal Council to Lord J. Russell.*

Berne, le 19 *Mars*, 1860.

Lorsqu'au commencement de l'année dernière la paix de l'Europe paraissait sérieusement menacée, et que les hostilités étaient sur le point d'éclater dans l'Italie Supérieure, le Conseil Fédéral Suisse se vit appelé à exposer en toute franchise aux Hautes Puissances l'attitude que, en cas de guerre, la Confédération se proposait de prendre vis-à-vis des Provinces Savoisiennes comprises dans la neutralité Suisse, provinces sur lesquelles la Suisse a des droits

touchées par les tractations des Puissances, on ne pouvait pas refuser d'admettre la Confédération à y prendre part. Or, il aurait été évidemment porté atteinte à la position internationale de la Suisse par la formation d'une Confédération Italienne, par l'entrée dans cette Confédération de la Sardaigne avec les parties de la Savoie comprises dans la neutralité Suisse. C'est par ces motifs que la Suisse demandait aux Puissances à être admise aux délibérations du Congrès, pour autant que celles-ci auraient pour objet ses rapports avec le territoire Savoisien neutralisé. On sait que le Congrès est resté à l'état de projet, et que depuis le commencement de la présente année l'on discute l'idée de modifier le groupement des Etats de l'Italie Centrale.

La cession de la Savoie à la France était une idée en connexité immédiate avec la conception d'un Grand Etat Italien formé par l'annexion des Duchés au Royaume de Sardaigne. Cette idée a acquis une importance positive par le discours du Trône que Sa Majesté l'Empereur des Français a tenu le 1er de ce mois en ouvrant la session des Chambres Françaises.

Il y est déclaré en termes non équivoques qu'en présence de la transformation de l'Italie Septentrionale, qui a pour résultat de procurer à un puissant Etat la possession de tous les passages des Alpes, il a été du devoir de la France de revendiquer pour la sûreté de ses frontières les versants Français des montagnes. Le Ministre Français des Affaires Etrangères s'était déjà exprimé dans le même sens dans une note qu'il adressait le 24 Février au Représentant de la France à Turin. Dans cette communication, le Gouvernement Français faisait aussi entendre que si tout ou partie des Etats de l'Italie Centrale étaient annexés à la Sardaigne, la possession de la Savoie deviendrait pour la sécurité des frontières Françaises une nécessité géographique. M. le Ministre avait la bienveillance d'ajouter que les intérêts de la Suisse, que la France désirait toujours prendre en considération, devraient être sauvegardés. Dans cette situation le Conseil Fédéral ne pouvait garder plus longtemps une expectative indifférente; pour le cas où la cession de la Savoie s'effectuerait, il était de son devoir de chercher à connaître les intentions des Puissances immédiatement intéressées relativement aux provinces neutralisées. Il a fait à cet effet les démarches nécessaires, et par des paroles tranquillisantes la France lui a fait savoir que la question de la cession de la Savoie à la France n'était pas sur le tapis actuellement, mais que dans cette éventualité les provinces du Chablais et du Faucigny seraient cédées à la Suisse. Ces assurances furent dans le commencement de Février dernier données de vive voix soit par le Chargé d'Affaires de France à Berne, soit par son Excellence le Ministre des Affaires Etrangères au Ministre Suisse à Paris. A la même époque une communication

semblable a été faite au Président du Gouvernement de Genève par M. le Vice-Consul de France. On a appris depuis que déjà le 4 Février, le Gouvernement Français s'était énoncé absolument dans les mêmes termes vis-à-vis du Ministre Anglais, et que peu de jours après une déclaration dans le même sens a été adressée au Gouvernement Sarde par l'Ambassade Française à Londres.

Ces faits étaient de nature à rassurer le Conseil Fédéral: il pensait que pour le cas où le *statu quo* ne pourrait pas être maintenu, maintien qu'il préférait à tout changement, les droits et les intérêts de la Suisse seraient sauvegardés et que le résultat serait en suite confirmé et garanti par les Puissances. Toutefois il s'efforça d'obtenir des assurances plus précises et écrites, sans montrer de l'inquiétude. Mais quel ne fut pas son étonnement et sa pénible surprise en remarquant dans les proclamations des Gouverneurs d'Annecy et de Chambery des 8 et 10 Mars, que les populations de la Savoie étaient appelées à se prononcer uniquement sur le point de savoir si elles voulaient continuer d'appartenir à la Sardaigne ou bien être annexées à la France, et que ces pièces importantes ne font aucune mention de la Suisse et de ses droits solennellement reconnus sur les provinces neutralisées de la Savoie.

Le Conseil Fédéral ne pouvait accepter en silence un tel procédé. Il aurait manqué gravement aux intérêts du pays qui lui sont confiés, s'il n'avait protesté solennellement contre cette manière de faire. Le 12 Mars, les Représentants de la Suisse à Paris et à Turin ont été chargés de faire observer aux Gouvernements de France et de Sardaigne que si la Savoie était l'objet d'un arrangement, on ne pouvait pas refuser d'entendre la Suisse, et que des Traités reconnus jusqu'à ces derniers temps par toutes les Puissances intéressées de l'Europe établissaient entre la Confédération et la Sardaigne les



dans les assurances qui lui ont été données au commencement de Février, elle estime néanmoins dans la situation actuelle, et en présence de ce qui se passe en Savoie, avoir le devoir et le droit de réclamer une telle déclaration qui seule pourrait la tranquilliser au sujet des intérêts qu'il a ici à défendre.

La base juridique des prétentions de la Suisse est si connue et a été discutée à des points de vue si divers que le Conseil Fédéral croit pouvoir s'en référer à cet égard à ses notes précédentes, et spécialement au Mémoire annexé à sa circulaire du 18 Novembre, 1859, Mémoire où ce sujet était exposé d'une manière approfondie et complète. Il croit donc pouvoir se borner à insister ici sur quelques-uns des points les plus importants.

Dans le Traité de Paix qui fut conclu en 1564 entre Berne et la Savoie, sous la médiation des Etats Confédérés, et qui fut garanti par la France et par l'Espagne, on trouve une disposition conçue en ces termes :

"Aucune des parties ne devra aliéner par vente, échange, ou de quelque autre manière, les villes, forteresses, pays, et gens, à un autre Prince, Seigneur, ville, pays, et commune quelconque, afin qu'une des parties préserve l'autre de tout voisinage étranger, importun, et onéreux, et que chacune d'elles en soit et demeure préservée."

Cette stipulation du Traité de Paix de 1564 a été confirmée en même temps que tous les autres Traités par l'Article XXIII du Traité de Turin du 16 Mars, 1816.*

L'instrument à teneur duquel Sa Majesté le Roi de Sardaigne consentit à une cession de territoire en faveur de Genève, renferme la disposition suivante garantie par les Hautes Puissances :

"Que les provinces du Chablais et du Faucigny, et tout le territoire au nord d'Ugine, appartenant à Sa Majesté, fassent partie de la neutralité Suisse, garantie par toutes les Puissances ; c'est-à-dire, que toutes les fois que les Puissances voisines de la Suisse se trouveront en état d'hostilités ouvertes ou imminentes, les troupes de Sa Majesté le Roi de Sardaigne qui pourraient se trouver dans les provinces se retireront, et pourront à cet effet passer par le Valais si cela devient nécessaire ; qu'aucunes autres troupes armées d'aucune Puissance ne pourront y stationner ni les traverser, sauf celles que la Confédération Suisse jugerait à propos d'y placer, bien entendu, que cet état de choses ne gêne en rien l'administration de ces provinces, où les Agents Civiles de Sa Majesté le Roi pourront aussi employer la Garde Municipale pour le maintien du bon ordre."

Cette disposition est formellement confirmée par l'Article XCII de l'Acte du Congrès de Vienne.

Enfin la déclaration expédiée et signée à Paris le 20 Novembre, 1815, s'énonce comme suit :

* *Vol. VII.* Page 21.

"Les Puissances reconnaissent et garantissent également la neutralité des parties de la Savoie désignées par l'Acte du Congrès de Vienne du 29 Mars, 1815, et par le Traité de Paris de ce jour, comme devant jouir de la neutralité de la Suisse, de la même manière que si elles appartenaient à celle-ci.

"Les Puissances signataires de la déclaration du 20 Mars reconnaissent authentiquement par le présent Acte que la neutralité et l'inviolabilité de la Suisse, et son indépendance de toute influence étrangère, sont dans les vrais intérêts de la politique de l'Europe entière."

La pensée qui a dirigé les Hautes Puissances dans ces stipulations est évidemment celle-ci: la neutralité et l'indépendance de la Suisse est une condition de la sécurité générale Européenne; et afin de sauvegarder autant que possible cette neutralité et indépendance, on comprend dans la neutralité Suisse quelques parties de la Savoie qui sont absolument nécessaires pour défendre efficacement cette neutralité, et sans lesquelles le but poursuivi dans l'intérêt de l'Europe ne serait atteint qu'incomplètement si ce n'est pas du tout. Ces motifs existent dans la même force encore aujourd'hui.

En présence de ces faits, en présence des droits solennellement garantis à la Confédération par l'Europe, la Suisse peut exprimer l'opinion que ses prétentions sur les provinces neutralisées de la Savoie ne sont pas de nature à être mises à néant par une simple cession, et tout aussi peu par une votation populaire.

Ici il y a lieu de prendre en considération et la nécessité géographique et l'opportunité politique. Si la France précise sa situation vis-à-vis d'une Puissance occupant le nord de l'Italie, en ce sens qu'il était de son devoir de revendiquer les versants Français des montagnes pour assurer ses frontières, la Suisse est à beaucoup plus forte raison fondée à former une telle réclamation; la Suisse



passage du Simplon, celui du Grand St. Bernard, ainsi que les Cantons de Vaud et de Genève, sont constamment menacés.

Le motif pour lequel au moins un parti poursuit l'annexion de la Savoie tout entière à la France semble se trouver dans la circonstance qu'il est contraire au sentiment naturel de morceler un pays qui pendant une longue série d'années a formé un tout et possède une histoire si riche. Les considérations de piété ont certainement leur valeur lorsqu'il s'agit de séparer la Savoie d'une dynastie à laquelle elle a été rattachée depuis des siècles et dont elle renferme le berceau. Mais si l'on fait abstraction de ce point de vue et qu'on se familiarise avec la pensée de lier désormais son sort à une autre Puissance, cette objection à un partage n'a plus guère d'importance.

Le territoire qui forme actuellement le Duché de Savoie a, comme tous les Etats du moyen âge, eu de petits commencements; ce n'est même que peu à peu, par conquêtes et par successions, qu'il est arrivé à son état présent. Le noyau d'où s'est développée la Savoie d'aujourd'hui est la province qui porte le nom de Maurienne. Dans le cours des siècles il s'est étendu au point de comprendre les territoires qui déjà maintenant appartiennent à la Confédération Suisse. Comme dans l'origine, les divers districts qui formaient la Savoie ont dans le cours du temps subi les atteintes du principe de morcellement. Le Canton de Vaud, le Bas Valais, et Genève, appartiennent depuis des siècles à la Suisse; d'autres parcelles, le Bugey et la Bresse, se trouvent actuellement incorporées à la France.

Ainsi qu'on l'a fait remarquer plus haut, la situation géographique elle-même de la Savoie recommande un partage, puisque les provinces méridionales de ce Duché ont leur versant naturel vers la France et celles du nord tout aussi naturellement vers la Suisse.

Mais il est un autre facteur non moins important que cette considération de géographie; c'est la population elle-même, dont le bien-être mérite avant tout d'être porté en ligne de compte. Pour les besoins les plus importants de la vie, pour les affaires de tous les jours, pour l'échange des produits de l'agriculture et du commerce, en un mot pour tout, la population de cette partie des provinces neutralisées est appelée à s'adresser presqu'exclusivement à la Suisse, tandis qu'à tous ces divers égards elle ne soutient aucune relation avec le reste de la Savoie. La circonstance que déjà plus de 11,000 citoyens ont spontanément manifesté leurs vœux d'être unis à la Suisse dans le cas où ils devraient être séparés du Royaume de Sardaigne, prouve pleinement que cette population sait apprécier les considérations qui viennent d'être émises, qu'elle comprend le sérieux de sa situation et attend l'avenir avec anxiété.

On a aussi émis l'idée que les provinces neutralisées pouvaient rester dans le *statu quo*, dans le cas même où la Savoie tout entière serait cédée à la France.

Le Conseil Fédéral n'a certes pas besoin de discuter cette hypothèse et d'en démontrer l'impossibilité. Un état de choses qui peut avoir ses raisons vis-à-vis d'une Puissance de second ordre, serait complétement irrationnel vis-à-vis d'une des plus grandes Puissances militaires de l'Europe et serait également contraire à la dignité des deux Etats. A supposer que la Savoie soit réunie à la France, ou bien, cette Puissance refuserait de reconnaître le *statu quo*, ou bien, l'état actuel des choses n'aurait plus pour la Suisse qu'une importance nominale sans valeur réelle. La stipulation du retrait éventuel des troupes Françaises qui occuperaient au moment donné les provinces neutralisées, par le Canton du Valais et par le Simplon, serait même à qualifier de non-sens.

Après avoir exposé ces divers points de vue, la Suisse réclame l'intervention des Hautes Puissances dans une affaire si importante et si sérieuse pour son avenir; elle fait cette démarche avec toute la confiance qu'elle doit aux garants de l'ordre entre les nations et des Traités sur lesquels repose le droit international Européen.

Elle peut attendre avec confiance le maintien des droits que lui assurent les Traités; elle peut attendre que, si réellement un changement de l'état actuel des choses doit avoir lieu et si la Savoie devait être cédée, la possibilité lui sera donnée, par l'adjonction des provinces neutralisées, de défendre avec chance de succès sa neutralité et son indépendance. Elle peut d'autant moins se voir trompée dans cette attente qu'il ne s'agit pas d'avantages particuliers, mais d'intérêts que les Hautes Puissances elles-mêmes ont reconnu avoir une importance générale pour l'Europe entière, et que la France a confirmé vis-à-vis d'elle encore ces derniers jours le maintien de ses bonnes dispositions pour régler cette affaire dans un sens qui sauvegarde nos droits et intérêts.

Le Conseil Fédéral Suisse a l'espoir que sa demande [redacted]

ment de Nice à la France. Je ne puis qu'éprouver un très vif sentiment de regret de n'avoir pas réussi, comme je l'eusse souhaité, à modifier une opinion qui m'était déjà connue par des communications précédentes de M. l'Ambassadeur d'Angleterre; mais la prolongation de toute discussion à cet égard serait sans objet pratique, et je préfère, plutôt que de provoquer un nouvel échange d'explications également pénibles pour les deux pays, me borner à constater que la dépêche de Lord John Russell n'a pas le caractère d'une protestation. Le Gouvernement de Sa Majesté Britannique, en un mot, déclare n'être pas de l'avis du Gouvernement de l'Empereur; mais cette divergence ne constitue pas une opposition de nature à affecter les rapports des Cabinets de Paris et de Londres. Je m'en félicite sincèrement, M. le Comte, et il n'y a que deux points de l'argumentation de Lord John Russell que je veuille examiner d'une façon sommaire, afin de ne laisser subsister dans l'esprit du Principal Secrétaire d'Etat de Sa Majesté Britannique ni une méprise ni un doute sur nos intentions. Je croyais avoir établi que l'Empereur, en se servant dans son discours aux Grands Corps de l'Etat du mot de "revendication," n'avait jamais eu la pensée de se référer à aucun acte diplomatique, à aucune circonstance d'une autre époque. Les explications que j'ai données à ce sujet aux Représentants de Sa Majesté près les Cours d'Allemagne ont été jugées partout aussi satisfaisantes que possible, et je vous avais invité à remettre à Lord John Russell une copie de la dépêche qui les contient. Je renouvelle aujourd'hui ces explications avec la confiance qu'en les examinant de plus près, le Gouvernement de Sa Majesté Britannique ne les accueillera pas moins bien que les Puissances auxquelles elles étaient plus spécialement adressées.

Quant à la neutralité Helvétique, M. le Comte, que Lord John Russell regarde comme menacée par l'adjonction de la Savoie au territoire de l'Empire, je me contenterai de vous faire observer que la France attache le plus grand intérêt à la préserver de toute atteinte. Le Gouvernement de l'Empereur n'a donc pas hésité, afin de témoigner de la sincérité de ses dispositions à cet égard, à insérer dans le Traité qu'il vient de conclure à Turin une clause ainsi conçue:

"Il est entendu que Sa Majesté le Roi de Sardaigne ne peut transférer les parties neutralisées de la Savoie qu'aux conditions auxquelles il les possède lui-même, et qu'il appartiendra à Sa Majesté l'Empereur des Français de s'entendre à ce sujet tant avec les Puissances représentées au Congrès de Vienne qu'avec la Confédération Helvétique, et de leur donner les garanties qui résultent des stipulations rappelées dans le présent Article."

Il me semble que toutes les appréhensions doivent disparaître en présence de cet engagement spontané, et que, certain désormais de pouvoir discuter les garanties qui seront, à la suite d'une entente

Européenne, jugées les plus propres à réaliser, dans ses rapports avec la neutralité permanente de la Suisse, l'objet des stipulations relatives à la neutralisation éventuelle d'une partie de la Savoie, le Gouvernement de Sa Majesté Britannique n'a pas à craindre que cet intérêt, dont nous avons ainsi reconnu l'importance, ne soit pas réglé d'une façon satisfaisante.

Vous êtes autorisé à donner lecture et copie de cette dépêche à Lord John Russell. Agréez, &c.

Le Comte Persigny. THOUVENEL.

No. 99.—*Earl Cowley to Lord J. Russell.*—(*Received March* 29.)

My Lord, *Paris, March* 28, 1860.

I have the honour to inclose herewith copies of a note and its inclosures addressed to me by the Swiss Envoy. I have, &c.

Lord J. Russell. COWLEY.

(*Inclosure* 1.)—*Dr. Kern to Earl Cowley.*

Milord, *Paris, le* 28 *Mars*, 1860.

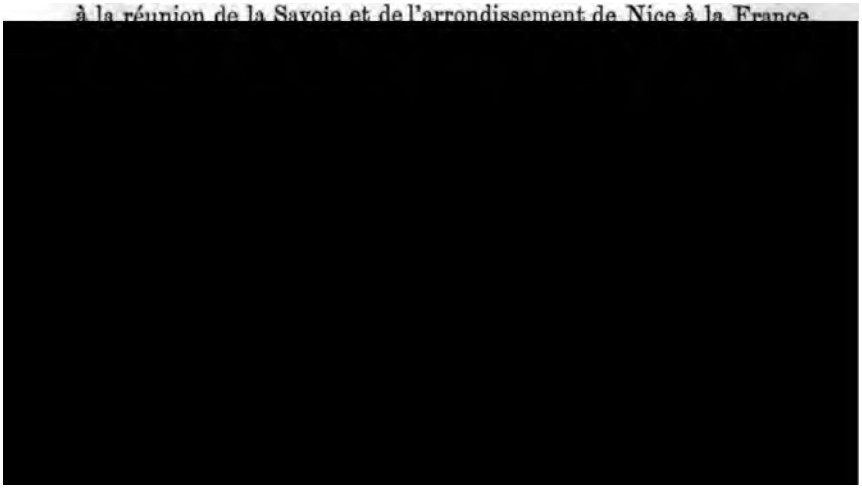
J'ai l'honneur de remettre ci-joint à votre Excellence la copie d'une note que je viens d'envoyer au Ministère des Affaires Etrangères. En vous priant de vouloir bien en donner connaissance à votre Gouvernement, je saisis, &c.

Le Comte Cowley. KERN.

(*Inclosure* 2.)—*Dr. Kern to M. Thouvenel.*

M. le Ministre, *Paris, le* 28 *Mars*, 1860.

Le Gouvernement de la Confédération Suisse après avoir pris connaissance des stipulations du Traité par lequel Sa Majesté le Roi de Sardaigne consent, sous la réserve de la sanction des Chambres, à la réunion de la Savoie et de l'arrondissement de Nice à la France



même des rapports en question, et que l'annexion d'un territoire garanti dans l'intérêt de la neutralité d'un autre pays, porte un tout autre caractère que celle du territoire d'Etats qui ne se trouvent pas dans ces conditions exceptionnelles. Toute exécution du Traité indiqué en tant qu'elle toucherait aux Provinces neutralisées serait regardée par mon Gouvernement comme contraire à des stipulations qui ont un caractère international.

Le Conseil Fédéral se voit donc dans le cas de protester contre toute mesure d'exécution de ce Traité, pour ce qui concerne les Provinces neutralisées. Il proteste tout particulièrement, en demandant le maintien du *statu quo*, contre toute votation sur l'annexion, contre toute prise de possession, soit militaire, soit civile de ces Provinces, jusqu'à ce qu'une entente avec les Puissances garanties et avec la Suisse ait eu lieu.

Le Conseil Fédéral demandera la réunion de Représentants des Puissances qui ont garanti à la Suisse la neutralité des 8 provinces, et se réserve, comme représentant du pays le plus intéressé, conformément aux principes du droit international Européen déjà reconnus, d'y faire valoir les droits et les intérêts de la Suisse.

Le Conseil Fédéral espère que le Gouvernement Impérial reconnaîtra la justesse des réclamations qui viennent d'être exposées, d'autant plus que dans l'Article II du Traité du 24 Mars, la France s'engage elle-même "de s'entendre à ce sujet tant avec les Puissances représentées au Congrès de Vienne qu'avec la Confédération Helvétique." Ce n'est donc qu'une conséquence naturelle et nécessaire de cette stipulation que de renoncer à toute mesure qui aurait pour but d'exécuter le Traité, en tant qu'il touche aux provinces neutralisées, avant que cette entente se soit effectuée.

C'est dans cet espoir et avec pleine confiance dans les sentiments de justice du Gouvernement de l'Empereur, que le Soussigné, &c.

M. Thouvenel. KERN.

No. 100.—*Captain Harris to Lord J. Russell.*—(*Received March* 30.)

My Lord, *Berne, March* 27, 1860.

I have the honour to transmit the copy of a note which I have this evening received from the Swiss President and the High Federal Council.

Similar notes have been addressed to the Representatives of the other European Powers at this capital. I have, &c.

Lord J. Russell. E. A. J. HARRIS.

(*Inclosure.*)—*The Swiss Federal Council to Captain Harris.*

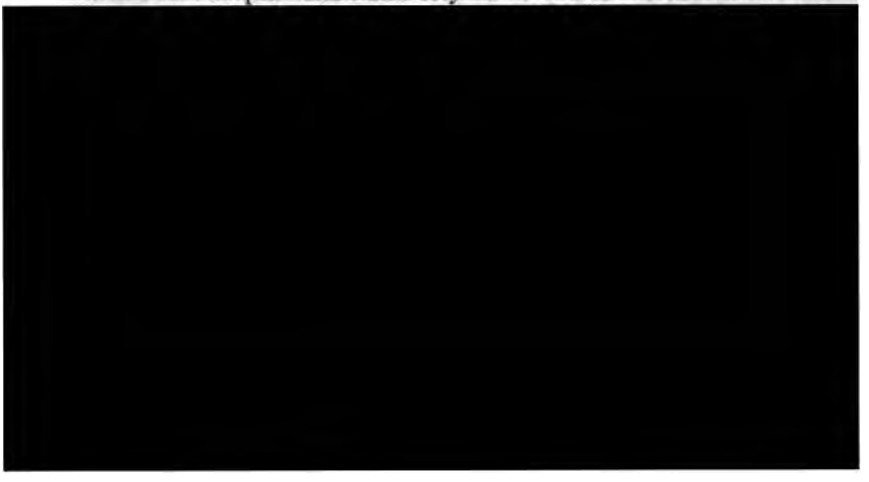
Berne, le 27 *Mars*, 1860.

Le Traité conclu entre Sa Majesté l'Empereur des Français et Sa Majesté le Roi de Sardaigne concernant la cession de la Savoie

if necessary, through the Valais, and that no armed troops of any other Power shall either traverse or be stationed in those provinces and territories, except such troops as the Swiss Confederation shall think proper to place therein.

It is plain that these engagements about Savoy, to which France is a party, were intended as a security for Switzerland against danger coming from France; but what would become of that security if Savoy were annexed to France, and if the very Power against which this access to Switzerland has been barred, should become the owner of the barrier thus erected for the protection of the Confederation? It is, indeed implied in the despatch of M. Thouvenel, that France, in taking Savoy, would accept also the engagements by which the King of Sardinia is bound, in regard to the neutralized portion of that country; but it is no disparagement to France to say that neither Switzerland nor the Powers of Europe could consider such an arrangement as affording to the integrity and neutrality of the Swiss Confederation that security which the above-mentioned stipulations of the Treaty of Vienna are calculated to afford: and Her Majesty's Government contend that it is not competent for France and Sardinia, by any compact between them, and without the consent of the other States of Europe, so materially to impair, as the proposed cession of Savoy would do, an element of security which a great European compact has provided for a State whose independence is an object of European concern.

Nor can it be for the well-understood interest of France herself to break down the barriers by which the neutrality of Switzerland is secured. It must surely be acknowledged that the neutrality of Belgium at the northern, and of Switzerland at the southern extremity of the eastern frontier of France, is of advantage to her, as well as to Europe. The neutrality of those two States narrows the



nationality, nor upon that of natural frontiers, that the cession of Savoy and of Nice is demanded, those arguments cannot fail to give rise to the most serious reflections. Her Majesty's Government, then, would beg to submit that no case has been made out to justify this cession on the ground of necessary defence for France, and that this cession would most unjustly, and in violation of Treaty engagements, materially weaken a defensive arrangement which united Europe has provided as a security for the neutrality and integrity of Switzerland.

Great Britain has no direct interest of her own in this matter, and it is from no unfriendly feeling towards France that her remonstrances on this subject have proceeded. Her Majesty's Government, indeed, are deeply impressed with the conviction that any territorial advantage which France might gain by the proposed annexation would be far more than counterbalanced by the distrust with which it would inspire the other States and Powers of Europe.

The calamities which overspread by turns almost every part of the continent of Europe during the closing years of the last and the early years of the present century, are still fresh in the memory of mankind: their renewal would, indeed, be a deplorable misfortune; and it cannot be surprising that the attention of nations and of their rulers should be directed, with anxious solicitude, to events which have a bearing both on the interests of the present and on the destinies of the future.

Your Excellency will read and give a copy of this despatch to M. Thouvenel. I am, &c.

Earl Cowley. J. RUSSELL.

No. 96.—Lord J. Russell to Earl Cowley.

My Lord, *Foreign Office, March* 22, 1860.

In giving to M. de Thouvenel a copy of the despatch sent herewith, in reply to the communication made to me on the 15th instant by the Count de Persigny of M. Thouvenel's despatch of the 13th instant, your Excellency will state to him that Her Majesty's Government propose to treat further, in a subsequent communication, the portion of Savoy the neutrality of which is guaranteed by the Great Powers by the Treaties of 1814 and 1815, together with that of Switzerland. But, before doing so, Her Majesty's Government must consult other Powers, parties to the Treaties of Guarantee. I am, &c.

Earl Cowley. J. RUSSELL.

No. 97.—Captain Harris to Lord J. Russell.—(Received March 23.)

My Lord, *Berne, March* 20, 1860.

I lose not a moment in transmitting the inclosed sealed document

le sujet d'un débat Parlementaire. Je ne saurais donc vous cacher, M. le Comte, l'impression pénible que la publication de cette pièce a dû produire sur mon esprit.

Toutefois je me serais volontiers abstenu de revenir sur cet incident, s'il n'avait pas fourni à la Presse Allemande et étrangère le prétexte d'une foule de fausses appréciations et de commentaires plus ou moins malveillants. S'il ne s'agissait en tout cela que d'attaques dirigées contre ma personne, je pourrais fort bien me dispenser de toute discussion rétrospective; mais dès qu'on s'est attaché à tirer des expressions dont je me serais servi vis-à-vis du Prince de la Tour d'Auvergne des inductions erronées par rapport à la politique de la Prusse, je crois ne pas avoir le droit de laisser, par un silence trop prolongé, acquérir à la dépêche de Lord Bloomfield la valeur d'un document historique.

C'est donc avec regret, mais pour accomplir un devoir rigoureux, que je vous adresse, M. le Comte, les observations suivantes dans le double but de préciser les faits et d'exprimer un désir quant à l'avenir.

Lord Bloomfield relate ce que j'avais dit au Ministre de France en ces termes:

"Baron Schleinitz seems to have also observed to the French Minister, that the present Government of Prussia had been the means of restraining the violent feelings which had been excited in Germany by the war in Italy, and to have made themselves unpopular by so doing; and that on the question of Savoy it must not be considered, because they have remained silent up to the present moment, that this meant indifference, for they should view the absorption with the greatest distrust."

Je crois que cette rédaction ne rend pas avec toute la précision désirable la pensée que j'ai exprimée au Prince de la Tour d'Au-

[redacted]

contre la Prusse. Ils croient pouvoir y puiser la preuve du peu de sincérité, pour ne pas dire de la duplicité, de notre conduite pendant la guerre d'Italie. D'après eux j'aurais voulu rappeler cette conduite au Ministre de France comme ayant été calculée à servir la cause de son Gouvernement, et comme devant, par conséquent, nous valoir des titres à la reconnaissance du Cabinet Impérial. Or, rien n'a été plus loin de ma pensée, parce que rien ne s'accorderait moins avec la vérité. Je puis en appeler à ce sujet à vos propres souvenirs, M. le Comte, car, mieux que qui que ce soit, vous avez été en mesure de juger combien pendant la crise dont il s'agit notre politique, libre de tout engagement et de toute influence étrangère, s'est exclusivement inspirée de l'intérêt, comme nous devions le comprendre, de la Prusse, inséparable de celui de l'Allemagne entière.

Ce que j'ai dit à M. le Prince de la Tour d'Auvergne avait simplement pour but de lui signaler les contradictions apparentes de la politique Française, telle qu'elle s'était annoncée l'été dernier par des déclarations solennelles, et telle qu'elle semblait se dessiner aujourd'hui dans l'affaire de Savoie, et de lui faire pressentir en même temps les reproches qu'on ne manquerait pas de nous adresser en Allemagne, pour n'avoir pas reconnu plus tôt les véritables tendances de cette politique.

En constatant cette différence, je suis loin de croire que Lord Bloomfield n'ait pas saisi, ou ne se soit pas appliqué à rendre la pensée dominante de l'argumentation dont je m'étais servi vis-à-vis du Ministre de France.

Mais, comme moi-même je l'avais fait dans mon entretien avec lui, il s'est bien plutôt attaché à signaler à son Gouvernement le caractère général de nos appréciations, telles que je les avais indiquées au Représentant de l'Empereur Napoléon, qu'à rapporter avec précision le détail des observations puisées dans l'histoire de l'année dernière, et que j'avais présentées au Prince de la Tour d'Auvergne pour motiver notre manière de voir. Il y a plus. Je suis disposé à croire que même la dépêche de Lord Bloomfield n'aurait donné lieu à aucun malentendu, si elle avait été portée exclusivement à la connaissance de M. le Principal Secrétaire d'Etat pour les Affaires Etrangères, qui, par des communications fréquentes et confidentielles de votre Excellence, et par les rapports antérieurs de Lord Bloomfield, a une connaissance trop intime de nos appréciations pour pouvoir se méprendre à cet égard.

Mais une pièce livrée à la publicité acquiert nécessairement une tout autre portée, et se trouve exposée aux commentaires d'un public trop facilement entraîné à juger une situation d'après des données isolées et peu précises.

Voilà, M. le Comte, le grave inconvénient de l'usage du Cabinet

Anglais de soumettre au Parlement des pièces diplomatiques relatives à des négociations pendantes.

Il ne m'appartient pas de juger les motifs qui le portent à cette manière d'agir, ni de lui donner des conseils à cet égard ; mais je ne saurais vous dissimuler que la crainte de voir livrer à la publicité les communications les plus confidentielles, doit finir par rendre extrêmement difficiles des épanchements intimes qui d'ailleurs sont si conformes aux relations amicales et cordiales qui subsistent heureusement entre les deux Cabinets.

Je vous invite, M. le Comte, à donner lecture de la présente dépêche à M. le Principal Secrétaire d'Etat, et à lui en laisser copie s'il le désire. Recevez, &c.

Le Comte Bernstorff. SCHLEINITZ.

No. 106.—*Lord J. Russell to Lord Bloomfield.*

MY LORD, *Foreign Office, April* 11, 1860.

WITH reference to your Lordship's despatch of the 31st ultimo, in which you state that Baron Schleinitz had again alluded to the publication of your report of the substance of a conversation between his Excellency and the Prince de la Tour d'Auvergne on the Savoy question, I have to instruct your Lordship to express to Baron Schleinitz my regret that the paper in question should have been published. I am, &c.

Lord Bloomfield. J. RUSSELL.

No. 107.—*Lord Bloomfield to Lord J. Russell.*—(*Rec. April* 12.)

MY LORD, *Berlin, April* 9, 1860.

I HAVE the honour to inclose translation of an article from the "Neue Preussische Zeitung," announcing the intended publication

[redacted]

From a perusal of this despatch, I perceive that Baron Schleinitz does not seem so much to call in question the accuracy with which I made known to your Lordship the substance of his observations, as to endeavour to establish a difference between the impression conveyed by my despatch, and that which it would have produced had it contained the details into which he appears to have entered in the course of his conversation with the Prince de la Tour d'Auvergne.

The publication of the extract of my despatch of the 3rd of March has, nevertheless, led the press of France and Germany to arrive at so many false conclusions that I must express my regret to have contributed in any way to the annoyance caused to Baron Schleinitz, and to the necessity which has forced him to write the explanatory despatch to Count Bernstorff of the 1st instant, in order to repel the violent and unjust attacks directed against the policy pursued by the Prussian Government during the Italian war.

I have, &c

Lord J. Russell. BLOOMFIELD.

(*Inclosure.*)—*Extract from an Article in the "Neue Preussische Zeitung" of April* 7, 1860.

(Translation.)

We hear that the Prussian Government have addressed a despatch to their Minister in London, Count Bernstorff, with reference to a despatch of Lord Bloomfield's to Lord John Russell narrating a conversation between the former and Baron Schleinitz, which was published in the Blue Book. It is therein shown that, in the first place, the substance of the conversation, as reported by Lord Bloomfield to Lord John Russell, was, to a certain extent, incorrect, and that the interpretation put upon it was not justified.

The Prussian Government further complain of the general practice of publishing such confidential diplomatic conversations, and express regret that the practice will necessarily impose, for the future, a greater reserve towards England, at the same time that they admit that intimate communications are in accordance with the position of the two Powers towards each other.

The foregoing is the sense of the despatch, according to the intelligence we have received from a well-informed quarter, accompanied by the notice that a literal translation of the despatch will be published.

DISCOURS du Roi des Pays-Bas, à l'Ouverture de la Session Législative.—La Haye, le 19 *Septembre,* 1859.

MESSIEURS,

A LA reprise des travaux de votre session ordinaire il m'est agréable de pouvoir vous donner l'assurance de mes bons rapports avec les Puissances étrangères. Je reçois de tous les Gouvernements des témoignages d'amitié.

L'état de nos affaires à l'intérieur est satisfaisant, et il y a lieu d'espérer encore de nouveaux progrès.

Dans les diverses branches de l'administration générale, tant des provinces que des communes, règne l'ordre avec le maintien des libertés civiles et religieuses.

Les subsides que la législature a alloués pour l'amélioration de nos moyens de défense, sont utilement employés. La bienveillante co-opération dont vous avez fait preuve en cette occasion, le patriotisme de mon peuple, qui s'est encore manifesté tout récemment par l'empressement des miliciens à se rendre sous les drapeaux, et l'esprit excellent que ne cessent de montrer les armées de terre et de mer, me donnent le ferme espoir de pouvoir maintenir, sous toutes les circonstances, l'indépendance et l'intégrité du sol de la Patrie.

Dans le domaine des arts et des sciences la Néerlande continue à tenir le rang honorable qu'elle y occupe.

L'agriculture, guidée par la science et l'expérience, ne cesse d'introduire des améliorations utiles. Cette source de la prospérité nationale n'est pas aussi abondante cette année qu'on en avait eu la perspective; toutefois s'il n'y a pas eu récolte extraordinaire, on en trouve quelque compensation dans l'abondance de la nourriture du bétail.



d'impôts actuel,—en tant qu'il en résulte une diminution des revenus ordinaires de l'Etat,—que lorsqu'on connaîtra, dans toute leur étendue, les dépenses qu'exigeront ces grands travaux.

Néanmoins, la situation du Trésor permettra de continuer l'amortissement de la dette publique: il vous sera présenté de nouveau un projet de loi à cet égard.

Si je constate avec reconnaissance cette situation florissante des finances du pays, et que je considère qu'elle est en grande partie le fruit des avantages que nous recueillons des possessions de l'Etat aux Indes Orientales, j'ai en même temps la conscience de ma mission de consacrer toute ma sollicitude à la prospérité et au développement progressif de ces possessions; et les sacrifices qui nous sont commandés à cet effet, ainsi que pour le maintien de notre autorité dans ces contrées, se font avec une grande libéralité.

Que si cette autorité pouvait être menacée, je compte non-seulement sur mes armées de terre et de mer qui, à Djambi et à Rétéh, viennent encore de donner des preuves si éclatantes de courage et de vaillance, mais aussi sur le patriotisme de la partie du peuple Néerlandais qui réside aux Indes. Les massacres de Banjermassin ne resteront pas impunis et on continuera à travailler énergiquement à la soumission de Boni.

L'ordre et la tranquillité règnent aux Indes Occidentales. L'examen du projet de loi relatif à l'émancipation des esclaves dans ces colonies n'a pas conduit à un résultat définitif dans votre dernière session: un projet de loi modifié sera incessamment soumis à vos délibérations.

Messieurs, vous aurez encore à vous occuper de nombreux travaux; de nouveaux projets de loi seront présentés à votre examen, et il vous sera donné l'occasion de reprendre ceux qui n'ont pu être terminés dans la session précédente.

Puisse la tâche qui vous sera dévolue s'accomplir sous les bénédictions du Tout-Puissant, et, à la faveur du maintien du repos et de la paix, pour le salut de la patrie!

Je déclare ouverte la session ordinaire des Etats-Généraux.

DISCOURS du Prince des Pays-Bas, à l'Ouverture de la Session Extraordinaire de l'Assemblée des Etats du Luxembourg.—Luxembourg, le 28 *Juin,* 1859.

Messieurs,

Le budget des dépenses que vous avez voté lors de votre dernière session ordinaire, ne répond pas entièrement aux principes posés par la Constitution. Il est d'ailleurs incomplet.

En outre, les mesures qui, d'après les résolutions de la haute Diète Germanique, s'exécutent dans toute la Confédération pour mettre sur le pied de guerre les armées des Etats de l'Allemagne, exigent des sacrifices extraordinaires.

Remanier et compléter le budget des dépenses, tout en votant les sommes indispensables pour l'entretien du contingent fédéral, tel est donc l'objet de votre session extraordinaire.

Messieurs, Le résultat de votre dernière session, qui prouvait un défaut d'entente entre vous et le Gouvernement, a été proclamé, pour ainsi dire, en même temps que se faisaient entendre des vœux de conciliation.

Pour ceux qui désirent cette entente, elle devra, elle pourra se faire sur la base de l'exécution loyale et complète de la Constitution.

Sa Majesté saura assurer cette exécution de la Constitution de la part de son Gouvernement, mais le Roi Grand-Duc espère aussi de votre part une preuve qu'elle est garantie par votre fidélité, votre dévouement et votre patriotisme.

Messieurs, Les circonstances actuelles sont graves ; alors que les maux de la guerre sont répandus sur une partie de l'Europe, nous pouvons encore ici nous occuper des choses que la paix seule peut assurer aux hommes. Que Dieu nous conserve cette position heureuse ; tel est le vœu que forme à cette heure tout bon Luxembourgeois, tout en portant un regard inquiet dans le lointain où tombent les calamités de la guerre.

J'ai la ferme confiance que, dans ces conjonctures difficiles, toutes les opinions se rallieront autour du trône, que vos délibérations calmes et réfléchies auront d'heureux résultats et serviront à encourager et à raffermir les bons sentiments de la loyale popu-



Cette paix, je la veux sincèrement, et ne négligerai rien pour la maintenir.

Je n'ai qu'à me féliciter de mes relations amicales avec toutes les Puissances de l'Europe. Les seuls points du globe où nos armes soient encore engagées sont dans l'extrême Orient; mais le courage de nos marins et de nos soldats, aidé du loyal concours de l'Espagne, amènera bientôt, sans doute, un Traité de Paix avec la Cochinchine. Quant à la Chine, une expédition sérieuse, combinée avec les forces de la Grande Bretagne, lui infligera le châtiment de sa perfidie.

En Europe, les difficultés touchent, je l'espère, à leur terme, et l'Italie est à la veille de se constituer librement. Sans revenir sur les longues négociations qui se traînent depuis tant de mois, je me bornerai à quelques points principaux.

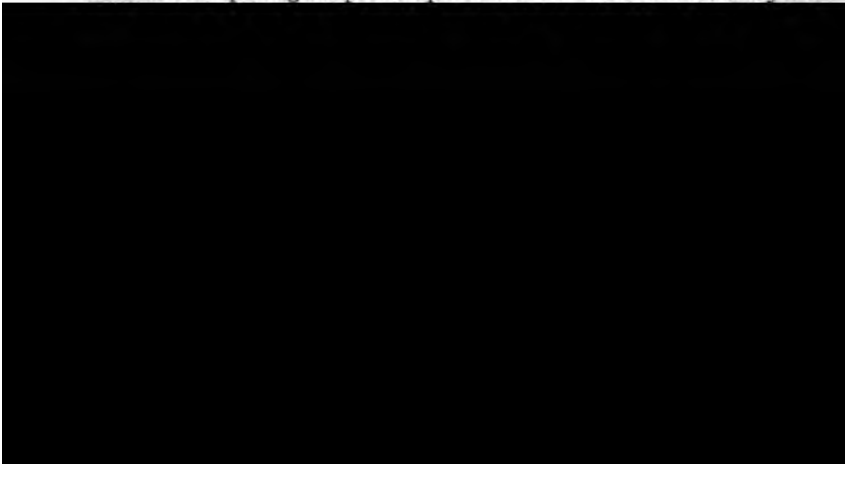
La pensée dominante du Traité de Villafranca était d'obtenir l'indépendance presque complète de la Vénétie au prix de la restauration des Archiducs. Cette transaction ayant échoué, malgré mes plus vives instances, j'en ai exprimé mes regrets à Vienne comme à Turin; car la situation, en se prolongeant, menaçait de demeurer sans issue. Pendant qu'elle était l'objet d'explications loyales entre mon Gouvernement et celui de l'Autriche, elle inspirait à l'Angleterre, à la Prusse, et à la Russie, des démarches dont l'ensemble atteste clairement, de la part des Grandes Puissances, le désir d'arriver à la conciliation de tous les intérêts. Pour seconder ces dispositions, il importait à la France de présenter la combinaison dont l'adoption avait le plus de chance d'être acceptée par l'Europe. Garantissant par mon armée l'Italie contre l'intervention étrangère, j'avais le droit de marquer les limites de cette garantie. Aussi n'ai-je pas hésité à déclarer au Roi de Sardaigne que, tout en lui laissant l'entière liberté de ses actes, je ne pourrais pas le suivre dans une politique qui avait le tort de paraître, aux yeux de l'Europe, vouloir absorber tous les Etats de l'Italie, et qui menaçait de nouvelles conflagrations. Je lui ai conseillé de répondre favorablement aux vœux des provinces qui s'offraient à lui, mais de maintenir l'autonomie de la Toscane, et de respecter en principe les droits du Saint Siége. Si cet arrangement ne satisfait pas tout le monde, il a l'avantage de réserver les principes, de calmer les appréhensions, et il fait du Piémont un Royaume de plus de 9,000,000 d'âmes.

En présence de cette transformation de l'Italie du Nord, qui donne à un Etat puissant tous les passages des Alpes, il était de mon devoir, pour la sûreté de nos frontières, de réclamer les versants Français des montagnes. Cette revendication d'un territoire de peu d'étendue n'a rien qui doive alarmer l'Europe et donner un démenti à la politique de désintéressement que j'ai proclamée plus d'une fois, car la France ne veut procéder à cet agrandissement,

quelque faible qu'il soit, ni par une occupation militaire, ni par une insurrection provoquée, ni par de sourdes manœuvres, mais en exposant franchement la question aux Grandes Puissances. Elles comprendront, sans doute, dans leur équité, comme la France le comprendrait certainement pour chacune d'elles en pareille circonstance, que l'important remaniement territorial qui va avoir lieu nous donne droit à une garantie indiquée par la nature elle-même.

Je ne puis passer sous silence l'émotion d'une partie du monde Catholique ; elle a cédé subitement à des impressions si irréfléchies, elle s'est jetée dans des alarmes si passionnées ; le passé, qui devait être une garantie de l'avenir, a été tellement méconnu, les services rendus tellement oubliés, qu'il m'a fallu une conviction bien profonde, une confiance bien absolue dans la raison publique, pour conserver, au milieu des agitations qu'on cherchait à exciter, le calme qui seul nous maintient dans le vrai. Les faits cependant parlaient hautement d'eux-mêmes : depuis 11 ans, je soutiens seul à Rome le pouvoir du Saint Père, sans avoir un seul jour cessé de révérer en lui le caractère sacré du Chef de notre religion. D'un autre côté, les populations de la Romagne, abandonnées tout à coup à elles-mêmes, ont subi un entraînement naturel et cherché à faire dans la guerre cause commune avec nous. Devais-je les oublier à la paix, et les livrer de nouveau, pour un temps illimité, aux chances de l'occupation étrangère ? Mes premiers efforts ont été de les réconcilier avec leur Souverain, et, n'ayant pas réussi, j'ai tâché du moins de sauvegarder dans les provinces soulevées le principe du pouvoir temporel du Pape.

D'après ce qui précède, vous voyez que si tout n'est pas encore terminé, comment il est permis, du moins, d'espérer maintenant une solution prochaine ; le moment semble donc venu de mettre un terme à de trop longues préoccupations et de rechercher les moyens



terre. Aussi ai-je pris résolument sur moi la responsabilité de cette grande mesure. Une réflexion bien simple en démontre l'avantage pour les deux pays : l'un et l'autre n'auraient pas manqué certainement, au bout de quelques années, de prendre, chacun dans son propre intérêt, l'initiative des mesures proposées ; mais alors, l'abaissement des tarifs n'étant pas simultané, il aurait eu lieu de part et d'autre sans compensation immédiate. Le Traité n'a donc fait qu'avancer l'époque de modifications salutaires, et donner à des reformes indispensables le caractère de concessions réciproques, destinées à fortifier l'alliance de deux grands peuples.

Afin que ce Traité puisse produire ses meilleurs effets, je réclame votre concours le plus énergique pour l'adoption des lois qui doivent en faciliter la mise en pratique. J'appelle surtout votre attention sur les voies de communication, qui seules, par leur développement, peuvent nous permettre de lutter avec l'industrie étrangère ; mais, comme les moments de transition sont toujours pénibles, et que notre devoir est de faire cesser l'incertitude, si nuisible aux intérêts, je réclame de votre patriotisme le prompt examen des lois qui vous seront soumises.

En affranchissant les matières premières de tous droits et en réduisant ceux qui pèsent sur les denrées de grande consommation, les ressources du Trésor se trouveront sensiblement diminuées ; néanmoins, les recettes et les dépenses de l'année 1861 seront en équilibre sans qu'il soit besoin de faire appel au crédit, ou d'avoir recours à de nouveaux impôts.

En vous traçant un fidèle tableau de notre situation politique et commerciale, j'ai voulu vous inspirer pleine confiance dans l'avenir et vous associer à l'accomplissement d'une œuvre féconde en grands résultats.

La protection de la Providence, si visible pour nous pendant la guerre, ne manquera pas à une entreprise pacifique qui a pour but l'amélioration du sort du plus grand nombre.

Continuons donc fermement notre marche dans le progrès, sans nous laisser arrêter ni par les murmures de l'égoïsme ni par les clameurs des partis, ni par d'injustes défiances.

La France ne menace personne ; elle désire développer en paix dans la plénitude de son indépendance, les ressources immenses que le Ciel lui a données, et elle ne saurait éveiller d'ombrageuses susceptibilités, puisque de l'état de civilisation où nous sommes ressort, de jour en jour plus éclatante, cette vérité qui console et rassure l'humanité, c'est que plus un pays est riche et prospère, plus il contribue à la richesse et à la prospérité des autres.

BRITISH NOTIFICATION of the raising of the Spanish Blockade of the Moorish Ports.—London, April* 30, 1860.

Foreign Office, April 30, 1860.

It is hereby notified that the Right Honourable Lord John Russell, Her Majesty's Principal Secretary of State for Foreign Affairs, has received from Sir Andrew Buchanan, K.C.B., Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the Court of Spain, a despatch, dated Madrid, April 17th, 1860, inclosing a copy of a notification which was published in the "Gazette" at Madrid on the same day (April 17th), announcing that the blockade of the Moorish ports, instituted by the Spanish Government on the 28th October, 1859 (the existence of which blockade was notified in the "London Gazette" of the 8th November, 1859), was raised on and from the 25th March last.

The following is a translation of the notification published in the Madrid Gazette of April 17, 1860:

It is hereby made known that, according to communications addressed to the Minister of State by the Minister of Marine, who refers to the Commander-in-chief of the Naval Forces intended to act on the Coast of Africa, from the 25th of the month of March last, the day on which the preliminaries of peace and the armistice between both armies were signed, the blockade of the Moorish ports, established on the 28th of October, of the year last passed, 1859, has been and is raised.

BRITISH NOTIFICATION of the Sardinian Blockade of Ancona.†—London, September 28, 1860.

[redacted]

circonstance, les principes de droit maritime établis par le Congrès de Paris. Je vous prie, &c.

Lord J. Russell. V. E. D'AZEGLIO.

BRITISH ORDER IN COUNCIL, for the Apprehending and Delivering up of Seamen, Deserters from Spanish Merchant Vessels in the British Dominions.—London, January 23, 1860.*

At the Court at Buckingham Palace, the 23rd day of January, 1860.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the "Foreign Deserters Act, 1852,"† [cap. 26], it is provided, that whenever it is made to appear to Her Majesty that due facilities are or will be given for recovering and apprehending seamen who desert from British merchant-ships in the territories of any foreign Power, Her Majesty may, by Order in Council, stating that such facilities are or will be given, declare that seamen, not being slaves, who desert from merchant-ships belonging to a subject of such foreign Power, when within Her Majesty's dominions, shall be liable to be apprehended and carried on board their respective ships, and may limit the operation of such Order, and may render the operation thereof subject to such conditions and qualifications, if any, as may be deemed expedient;

And whereas it has been made to appear to Her Majesty, that due facilities will be given for recovering and apprehending seamen who desert from British merchant-ships in the dominions of Her Majesty the Queen of Spain;

Now, therefore, Her Majesty, by virtue of the power vested in her by the said "Foreign Deserters Act, 1852," and by and with the advice of her Privy Council, is pleased to order and declare, and it is hereby ordered and declared, that from and after the publication hereof in the "London Gazette," seamen, not being slaves, and not being British subjects, who, within Her Majesty's dominions, desert from merchant-ships belonging to subjects of Her Majesty the Queen of Spain, shall be liable to be apprehended and carried on board their respective ships; provided always that if any such deserter has committed any crime in Her Majesty's dominions, he may be detained until he has been tried by a competent court, and until his sentence (if any) has been carried into effect.

And the Right Honourable the Lords Commissioners of Her Majesty's Treasury, and the Secretary of State for India, in Council, are to give the necessary directions herein accordingly.

WM. L. BATHURST.

* "London Gazette," of January 24, 1860. † Vol. XLI. Page 680.

DECREE of the Queen of Spain, relative to the reciprocal Arrest and Delivery of Seamen, Deserters from British and Spanish Merchant Vessels.—Madrid, April 19, 1860.

(Translation.)

On the 27th of December, 1859, my Minister, accredited to the Court of Great Britain, signed at London a declaration, for the mutual arrest and delivery of seamen, deserters from merchant-vessels of Spain and of the United Kingdom, and of which the following is a literal copy:

"The Undersigned Minister Plenipotentiary of Her Catholic Majesty has been instructed to make the following declaration:

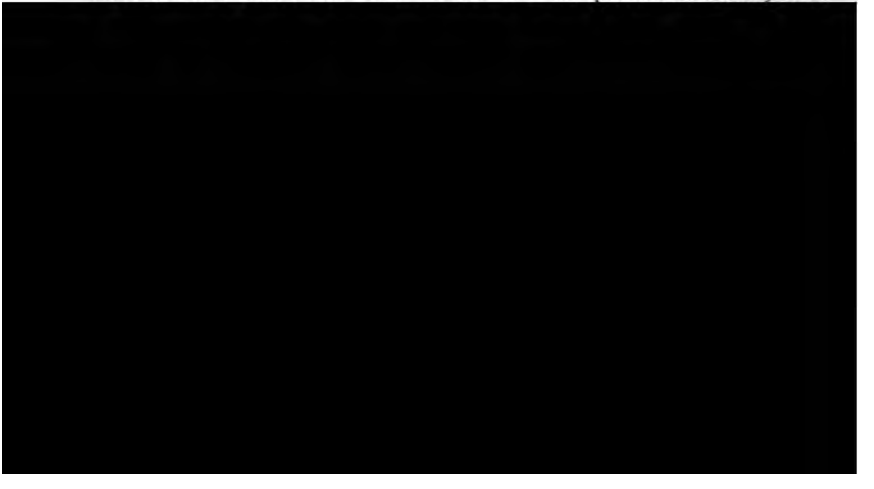
DECLARATION.

London, December 27, 1859.

"The Consuls-General, Consuls, and Vice-Consuls of the United Kingdom of Great Britain and Ireland, residing in Spain and her possessions, have the power to arrest and send, either on board their ships or to their respective countries, the individuals of the crew of British merchant-vessels who shall have deserted from such vessels; assistance is therefore to be rendered to that effect by all competent local authorities, after it has been proved by the rolls of registration, or any other authentic document, that the individuals thus reclaimed formed a part of such a crew."

After the production of such evidence, the surrender can no longer be denied, and all possible aid and power is therefore to be rendered to the British Consuls and Vice-Consuls for the discovery of such deserters.

Should any such deserter have besides committed some crime on land, his delivery may then be deferred by the local authorities until he has stood his trial before the competent tribunal, and



BRITISH ORDER IN COUNCIL, relative to the exercise of Power and Jurisdiction by Her Majesty in the Dominions of Japan.—London, January* 23, 1860.

At the Court at Buckingham Palace, the 23rd day of January, 1860.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by an Act of Parliament, made and passed in the session of Parliament holden in the 6th and 7th years of the reign of Her Majesty [cap. 94],† intituled "An Act to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual," it is, amongst other things, enacted, that it is and shall be lawful for Her Majesty to hold, exercise, and enjoy, any power or jurisdiction which Her Majesty now hath, or at any time hereafter may have, within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory:

And whereas Her Majesty hath power and jurisdiction in the dominions of the Tycoon of Japan:

And whereas Her Majesty was pleased, on the 3rd day of March, A.D. 1859,‡ by and with the advice of Her Privy Council, to issue a certain Order for the exercise of the said power and jurisdiction:

And whereas it is expedient at the present time to make further provision for the due exercise of the jurisdiction possessed by Her Majesty, as aforesaid, in the dominions of the Tycoon of Japan:

Now, therefore, in pursuance of the above-recited Act of Parliament, Her Majesty is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:

Repeal of Order in Council of March 3, 1859.

I. The above-recited Order of the 3rd day of March, A.D., 1859, shall be, and the same is hereby revoked and cancelled, save and except as to all acts, matters, and things, heretofore duly done under and in conformity with the said Order, or which may hereafter be duly done under and in conformity with the same, previously to the day next succeeding the day on which this Order shall be received by the Consul-General of Japan.

* "London Gazette" of February 10, 1860. † Vol. XXXI. Page 984.
‡ Vol. XLIX. Page 554.

Commencement of the Order.

II. And it is further ordered that this Order shall commence and take effect from and after the day on which it shall be received by the Consul-General in Japan.

Interpretation of terms.

III. And it is further ordered that, in the construction of this Order, the word "Consul" shall be construed to include all and every officer in Her Majesty's service, whether Consul-General, Consul, Vice-Consul, or Consular Agent, or person duly authorized to act in any of the aforesaid capacities in the dominions of the Tycoon of Japan, and engaged in carrying into execution the provisions of this Order; and that the terms "British ship," or "British vessel," or "ship or vessel under the British flag," shall be construed to include any ship or vessel British-registered and navigated according to law; and any ship or vessel owned, or partly owned, by a person entitled by law to be an owner of a British-registered vessel; that the term "crew" shall be construed to include all persons employed in navigating any such ship or vessel; and that, wherever in this Order any word or words is or are used importing the singular number or the masculine gender only, such word or words shall, nevertheless, be construed to include several persons as well as one person, and females as well as males, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Power to Consuls to enforce Treaties, and to establish Rules and Regulations.

IV. And it is further ordered that the Consul in the port, place, or district in which he may reside, shall have full power and authority



the same shall be affixed, and kept affixed and exhibited in some conspicuous place in the public office of the said Consul; and printed copies of the said rules and regulations shall be provided by the Consul, and sold at a price not exceeding one dollar for each copy; and for the purpose of convicting any person offending against the said rules and regulations, and for all other purposes of law whatsoever, a printed copy of the said rules and regulations, certified under the hand of the said Consul to be a true copy thereof, shall be taken as conclusive evidence of such rules and regulations; and no penalty shall be incurred, or shall be enforced, for the breach of any such rules or regulations, until the same shall have been so affixed and exhibited for one calendar month in the public office of the Consular district within which the breach of such rules or regulations shall be alleged to have been committed: provided always, that no rule or regulation to be hereafter made by any of Her Majesty's Consuls, and to be enforced by a penalty, shall take effect until it has been submitted and approved of by the Consul-General, and has thereupon been printed, and a copy of the same has been affixed and exhibited as aforesaid for one calendar month, in the public office of the Consular district.

Proceedings for enforcement of Treaties, and of Rules and Regulations for the observance thereof.

VI. And it is further ordered, that it shall be lawful for the Consul, upon information or upon the complaint of any party that a British subject has violated any of the stipulations of any Treaty between Her Majesty and the Tycoon of Japan, or has disregarded or infringed any of the rules and regulations for the observance of the stipulations of any such Treaty, affixed and exhibited according to the provisions of the next preceding Article of this Order, to summon before him the accused party, and to receive evidence and examine witnesses as to the guilt or innocence of such party, in regard to the offence laid to his charge, and to award such penalty of fine or imprisonment to any party convicted of any offence against any such Treaty, or against any such rules and regulations which may be specified in any such Treaty, or in any such rules and regulations; and any charge against a British subject for a breach of any Treaty, or for a breach of the rules and regulations for the observance of any such Treaty, shall be heard and determined by the Consul without Assessors: provided always, that in no case shall the penalty to be attached to a breach of any such rules and regulations exceed 500 dollars, or 3 months' imprisonment.

Proceedings for enforcement of Rules and Regulations other than those for the observance of Treaties.

VII. And it is further ordered, that any charge against a British subject for a breach of any rules and regulations other than those relating to the observance of Treaties, shall in like manner be heard and determined by the Consul, and in all cases in which the penalty shall not exceed 200 dollars, or one month's imprisonment, the Consul shall hear and determine the charge summarily, without the aid of Assessors; but where the penalty attached to a breach of any rules and regulations other than those relating to the observance of Treaties, shall amount to more than 200 dollars, or to imprisonment for more than one month, it shall be obligatory upon the Consul, before he shall proceed to hear the charge, to summon two British subjects of good repute, residing within his district, to sit with him as Assessors, which Assessors shall, however, have no authority to decide on the innocence or guilt of the party accused, or on the amount of fine or imprisonment to be awarded to him on conviction, but it shall rest with the Consul to decide on the guilt or innocence of the party accused, and on the amount of fine or imprisonment to be awarded to him: provided always, that in no case shall the penalty to be attached to a breach of rules and regulations, other than those for the observance of Treaties, exceed 500 dollars, or 3 months' imprisonment: and provided further, that in the event of the said Assessors, or either of them, dissenting from the conviction of the party accused, or from the penalty of fine or imprisonment awarded to him by the Consul, the Consul shall take a note of such dissent, with the grounds thereof, and shall require good and sufficient security for the appearance of the party convicted, at a future time, in order to undergo his sentence or receive his discharge; and the Consul shall, within 20 days, report his decision, with all the par-



for the observance of Treaties, a report of any and every decision made by a subordinate Consular officer, with or without the aid of Assessors, shall be sent in to the superior Consular officer of the district, and that on the receipt of such report, the superior Consular officer of such district, shall proceed, without Assessors, to revise such decision as to him may seem fit, and such revision shall have, for the purposes of this Order, the same effect as if the case had been originally heard and determined by such superior Consular officer, with or without the aid of Assessors: provided always, that in any case in which the Assessors, or either of them, shall dissent from a decision of a subordinate Consular officer, such decision shall not be subject to revision by the superior Consular officer, but, in the event of no appeal being entered as aforesaid, shall be submitted to Her Majesty's Principal Secretary of State for Foreign Affairs for revision, in the same manner as if such decision had been originally made by the superior Consular officer.

Appeal against Convictions for Breach of Treaties or of Rules and Regulations.

IX. And it is further ordered, that any party tried and convicted before a Consul for a breach of any Treaty between Her Majesty and the Tycoon of Japan, or for a breach of rules and regulations for the observance of any such Treaty, or for a breach of rules and regulations other than those relating to the observance of Treaties, may appeal, after sentence given by such Consul, to the Consul-General, who shall have power to confirm, or vary, or reverse such sentence, as to such Consul-General may seem fit, and to adjudge the expenses of such appeal, and from whose decision there shall be no further appeal; and upon notice given of such appeal, which notice must be given to the Consul in writing, signed by the party appealing within 15 days after the conviction, the Consul shall be entitled to require reasonable security from the party so appealing, which security shall in part consist of one or two sufficient sureties to be approved by the Consul, to the intent that, if the Consul-General should confirm or vary the sentence passed by the Consul, the appellant shall submit to such sentence, and likewise pay what shall be adjudged by the Consul-General for expenses: provided always, that the Consul shall forthwith report such appeal, and transmit a copy of the proceedings of such trial, to the Consul-General; and the party appealing against the sentence of the Consul shall be required to prosecute his appeal before the Consul-General, within such time as shall be by the Consul, with the approval of the Consul-General, assigned for the prosecution of such appeal; and if the party appealing shall not duly prosecute his appeal within

such time as aforesaid, it shall be lawful for the Consul to enforce his sentence in the same manner as if such appeal had not been interposed.

Proceedings against Offenders escaping from one Consular District to another.

X. And it is further ordered, that if any party charged with an offence committed against such Treaties, or such rules and regulations as aforesaid, shall escape or remove from the Consular district within which his offence was committed, and shall be found within another Consular district, it shall be lawful for the Consul within whose district such party shall be found, to proceed against him in the same manner as if the offence had been committed within such last mentioned district.

Consuls empowered, subject to Appeal, to hear Civil Suits, in which British Subjects are defendants, and Japanese or subjects of other Powers, plaintiffs.

XI. And it is further ordered, that it shall be lawful for the Consul of the district within which the party sued shall be found, to hear and determine any suit of a civil nature against a British subject, arising within any part of the dominions of the Tycoon of Japan whether such suit be instituted by a subject of the Tycoon of Japan, or by a subject or citizen of a foreign State in amity with Her Majesty; and if any party in such suit shall be dissatisfied with the decision given by such Consul, it shall be lawful for such party, within 15 days after such decision, to give to the Consul notice of appeal to the Consul-General; whereupon the Consul shall, with as little delay as possible, transmit all the documents which



Consuls empowered, subject to Appeal, to hear Civil Suits in which British Subjects are plaintiffs, and Japanese or subjects of other Powers, defendants.

XII. And it is further ordered, that it shall be lawful for the Consul of the district within which the party sued shall be found, in like manner to hear and determine any suit of a civil nature arising within any part of the dominions of the Tycoon of Japan, instituted by a British subject against a subject of the Tycoon of Japan, or against a subject or citizen of a foreign State in amity with Her Majesty: provided the defendant in such suit shall consent to submit to his jurisdiction, and give sufficient security that he will abide by the decision of the Consul, or, in case of appeal, by that of the Consul-General, and will pay such expenses as the Consul or Consul-General shall adjudge; and if any party in such suit shall be dissatisfied with the decision given by such Consul, it shall be lawful for such party, within 15 days after such decision, to give to the Consul notice of appeal to the Consul-General, and the proceedings in every such suit, or in any appeal arising therefrom, shall be conformable to and under the same condition as the proceedings in a suit, or in an appeal arising therefrom, in which a British subject is defendant, and a subject of the Tycoon of Japan, or a subject or citizen of a foreign State in amity with Her Majesty, is plaintiff.

Consuls empowered, subject to Appeal, to hear Civil Suits between British Subjects.

XIII. And it is further ordered, that in the event of any suit of a civil nature arising between British subjects within the dominions of the Tycoon of Japan, it shall be lawful, upon the application of any party to such suit, for the Consul of the district within which the party sued shall be found, to hear and determine such suit, subject to an appeal to the Consul-General, in any case where the sum in dispute shall not exceed 1,000 dollars, and, where it shall exceed such sum, to the Supreme Court of the Colony of Hong Kong; and every such appeal shall be made and conducted in the same manner and form, and under the same conditions, as in cases in which the defendant only is a British subject.

Assessors in Civil Suits.

XIV. And it is further ordered, that it shall be lawful for any of Her Majesty's Consuls before whom any suit whatever of a Civil nature is brought for decision, to summon two, and not more than four, British subjects, of good repute, residing within his district, to sit with him as Assessors at the hearing of such suit, and in case the sum sought to be recovered shall exceed 500 dollars, such suit

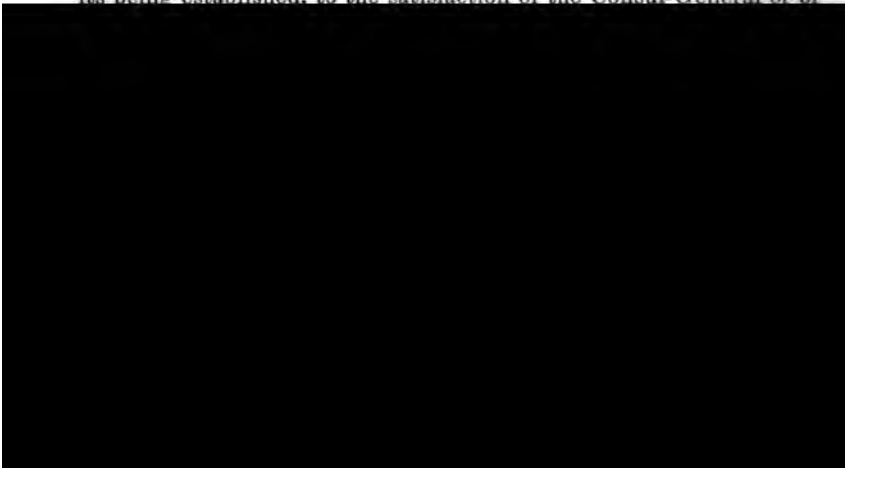
shall not be heard by the Consul without Assessors, if within a reasonable time such Assessors can be procured; and the Assessors aforesaid shall have no authority to decide on the merits of such suit, but in the event of such Assessors, or any of them, dissenting from the decision of the Consul, the Consul shall enter the fact of such dissent, and the grounds thereof, in the minutes of the proceedings, and in case of appeal shall transmit the same to the Consul-General, together with the documents relating to the suit.

Enforcement of Decisions in Civil Suits.

XV. And it is further ordered, that it shall be lawful for the Consul to enforce his decision against a British subject in a Civil suit by distress or imprisonment, in like manner as a decision of the Supreme Court of the colony of Hong Kong, in a Civil suit, is enforced within that colony.

Evidence to be adduced on hearing of Appeals.

XVI. And it is further ordered, that in an appeal to the Consul-General, or to the said Supreme Court, from the decision of a Consul, it shall not be open to any party to adduce any further evidence than that which had been laid before the Consul; and that a party shall not be required to appear personally to prosecute an appeal, or support a sentence: provided always, that in all such appeals, it shall be lawful for a party to allege facts essential to the issue of the suit which have come to his knowledge subsequently to the decision of the Consul, and to produce evidence in support of such facts, and provided also that it shall, moreover, be lawful for the said Consul-General, or the said Supreme Court to admit any further legal evidence besides that adduced before the Consul, on its being established, to the satisfaction of the Consul-General or of



pulsory order for the attendance of any person being a British subject, who may be competent to give evidence in such suit; and any British subject having been duly served with any such compulsory order, and with a reasonable notice of the day of the hearing of such suit, and upon his expenses of appearing as a witness having been paid or tendered to him by the party at whose application he shall have been ordered to attend, shall on his wilful default to appear as a witness at the hearing of such suit, be punished with a fine not exceeding 100 dollars, or with imprisonment for a period not exceeding 30 days, at the discretion of the said Consul; and every witness, being a British subject, so examined as aforesaid, in case of wilful false testimony, may, by the said Consul, be convicted of and punished for the crime of wilful and corrupt perjury.

Settlement of Suits by Agreement or Arbitration.

XVIII. And it is further ordered, that it shall be lawful for the Consul to promote the settlement of a suit or contention by amicable agreement between the parties, and, with the consent of the several parties, to refer the decision of a suit or contention to one or more arbitrators, and to take security from the parties that they will be bound by the result of such; and the award of such arbitrator or arbitrators shall be, to all intents and purposes, deemed and taken to be a judgment or sentence of the Consul in such suit or contention, and shall be entered and recorded as such, and shall have the like effect and operation, and shall be enforced accordingly, and shall not be subject to any appeal.

Trial of Crimes committed by British Subjects.

XIX. And it is further ordered, that it shall be lawful for any of Her Majesty's Consuls to cause to be apprehended and brought before him any British subject who may be charged with having committed any crime or offence within the dominions of the Tycoon of Japan, or on board of any Japanese ship or vessel within the said dominions; and such Consul shall thereupon proceed, with all convenient speed, to inquire concerning the same, and for such purpose shall have power to examine on oath, or in such form and with such ceremonies as the witness shall declare to be binding on his conscience, any witness who may appear before him to substantiate such charge; and shall have power to compel any person, being a British subject, who may be competent to give evidence as to the guilt or innocence of the party so charged, to appear and give evidence, and to punish the wilful default of any such person to appear and give evidence, after reasonable notice of the day of the hearing of such charge, by fine or imprisonment, in like manner as provided in Article XVII of this Order, and shall examine every

such witness in the presence and hearing of the party accused, and afford the accused party all reasonable facility for cross-examining such witness, and shall cause the deposition of every such witness to be reduced to writing, and the same to be read over, and, if necessary, explained to the party accused, together with any other evidence that may have been given against him during the course of the inquiry; and shall require such accused party to defend himself against the charge brought against him, and, if necessary, advise him of the legal effect of any voluntary confession; and shall take, in like manner, the evidence of any witness whom the accused party may tender to be examined in his defence; and every witness, being a British subject, so examined as aforesaid, in case of wilful false testimony, may by the said Consul be convicted and punished for the crime of wilful and corrupt perjury; and when the case has been fully inquired into, and the innocence or guilt of the person accused established to the satisfaction of the Consul, the Consul, as the case may be, shall either discharge the party accused from custody if satisfied of his innocence, or proceed to pass sentence on him if satisfied of his guilt; and it shall be lawful for any Consul, having inquired into, tried, and determined, in the manner aforesaid, any charge which may be brought before him, to award to the party convicted any amount of punishment not exceeding imprisonment for one month, or a fine of 200 dollars.

Assessors on the Trial of Crimes committed by British Subjects.

XX. And it is further ordered, that if the crime or offence whereof any person, being a British subject, may be accused before any of Her Majesty's Consuls as aforesaid, shall appear to such Consul to be of such a nature as, if proved, would not be adequately



dissent, and the Consul shall forthwith report to the Consul-General the fact that such dissent has been so recorded in the minutes of the proceedings, and shall, as soon as possible, lay before the Consul-General copies of the whole of the depositions and proceedings, with the dissent of the Assessor or Assessors recorded therein; and it shall be lawful thereupon for the Consul-General, by warrant under his hand and seal, addressed to the Consul by whom the case was heard and determined, to confirm or vary, or remit altogether, as to the Consul-General may seem fit, the punishment awarded to the party accused, and such Consul shall give immediate effect to the injunction of any such warrant.

Consuls may award Deportations on Second Convictions.

XXI. And in order more effectually to repress crimes and offences on the part of British subjects within the dominions of the Tycoon of Japan, it is further ordered, that it shall and may be lawful for any of Her Majesty's Consuls to cause any British subject who shall have been twice convicted before him of any crime or offence, and punished for the same, and who, after execution of the sentence of the Consul on any second conviction, shall not be able to find good and sufficient security, to the satisfaction of the Consul, for his future good behaviour, to be sent out of the dominions of the Tycoon of Japan; and to this end any such Consul as aforesaid shall have power and authority, as soon as may be practicable after execution of the sentence on such second conviction, to send any such twice-convicted party out of the dominions of the Tycoon of Japan; if a native of the territories formerly administered by the East India Company to some port of the said territories; and if such party is not a native of such territories, to England; and, meanwhile, to detain him in custody until a suitable opportunity for sending him out of the said dominions shall occur: and any person so to be sent out of the said dominions as aforesaid shall be embarked in custody on board one of Her Majesty's vessels of war, or, if there should be no such vessel of war available for such purpose, then on board any British ship or vessel bound to any such port as aforesaid or to England; and it shall be lawful for the commander of any of Her Majesty's ships of war, or of any British ship or vessel bound to any such port as aforesaid, or to England, to receive any such person as aforesaid under a warrant from the Consul to him addressed, and thereupon to convey him in custody to any such port as aforesaid or to England, in the same manner as if he were a distressed British subject, unless he shall be willing and able himself to defray the expenses of his passage.

Consuls may, in certain cases, award Deportation on First Conviction.

XXII. And it is further ordered, that in any case in which any British subject shall be accused before any of Her Majesty's Consuls of the crime of arson, or housebreaking, or cutting or maiming, or stabbing or wounding, or of any assault endangering life, or of causing any bodily injury dangerous to life, the proceedings before the Consul shall be carried on with the aid of Assessors, convened in the manner aforesaid; and it shall be lawful for the Consul, if to him shall seem fit, to cause any person convicted before him of any of the crimes aforesaid, over and above any fine or imprisonment which may be awarded to such person, to be sent out of the dominions of the Tycoon of Japan, and any such port as aforesaid, or to England, in the manner pointed out in the next preceding Article of this Order, notwithstanding the crime laid to the charge of such person may be the first of which he has been convicted before the Consul.

Consuls may require British Subjects to give Security to keep the Peace.

XXIII. And it is further ordered that it shall be lawful for any of Her Majesty's Consuls, within the dominions of the Tycoon of Japan, upon information laid before him by one or more credible witnesses, upon oath, that there is reasonable ground to apprehend that any British subject is about to commit a breach of the public peace, to cause such British subject to be brought before him, and to require such British subject to give sufficient security to keep the peace; and in the event of any such British subject being convicted of, and punished for, a breach of the peace, to cause such British subject, after he shall have undergone the punishment which may be awarded to him by the Consul, to find security for his future good



Consul sending him out shall forthwith report such act of deportation, with the grounds of his decision, to Her Majesty's Principal Secretary of State for Foreign Affairs, or, in a case where the party so deported is a native of the aforesaid territories, to the Governor-General of India.

Revision of Sentences of subordinate Consular Officer in Criminal Cases.

XXV. And it is further ordered that a report of every sentence passed by a subordinate Consular officer in the matters referred to in Articles XIX, XX, XXI, XXII, and XXIII of this Order, and awarding a fine exceeding 20 dollars, or imprisonment for more than 10 days, shall be sent into the superior Consular officer of the district; and, on the receipt of such report, such superior Consular officer shall proceed, without Assessors, to revise such sentence as to him may seem fit; and if the sentence should have been pronounced by the subordinate Consular officer, without Assessors, or with the concurrence of Assessors, then the decision pronounced by the superior Consular officer, on revision of the proceedings, shall be final; but if the sentence of the subordinate Consular officer shall have been pronounced, with dissent on the part of the Assessors, or of any of them, then the superior Consular officer shall not proceed to revise such sentence, but shall submit the whole proceedings to the Consul-General in the same manner as if the case had been originally heard and decided by the superior Consular officer, with dissent on the part of the Assessors, or any of them.

Persons Sentenced by Consuls may be sent to Hong Kong for Imprisonment.

XXVI. And it is further ordered, that it shall be lawful for any of Her Majesty's Consuls to send any person sentenced to imprisonment under this Order, at any time while such sentence of imprisonment is in the course of execution, to Hong Kong, in any of Her Majesty's ships of war, or in any British ship or vessel, to undergo his term of imprisonment in any jail in Hong Kong, and it shall be lawful for the commander of any of Her Majesty's ships of war, or of any British ship or vessel, to receive any such person on board, with a copy of such sentence and a warrant from the Consul for its due execution, addressed to the Chief Magistrate of Police of the said colony of Hong Kong, and thereupon to convey him in custody to Hong Kong, and, on his arrival there, to deliver him, with the said copy of such sentence and warrant, into the custody of the said Chief Magistrate of Police, or other officer of Her Majesty within the said colony, lawfully acting as such, who, on the receipt of the said warrant, and of the person therein

named, shall be authorized to commit such person to any jail of the said colony; and such sentence shall be enforced to execution in the said common jail in the same manner as if the sentence had been awarded by the Supreme Court of the said colony.

British Subjects charged with Offences may be sent to Hong Kong for Trial before the Supreme Court.

XXVII. And it is further ordered, that it shall be lawful for Her Majesty's Consul to cause any British subject charged with the commission of any crime or offence, the cognizance whereof may at any time appertain to him, to be sent in any of Her Majesty's ships of war, or in any British vessel, to Hong Kong, for trial before the Supreme Court of the said colony; and it shall be lawful for the commander of any of Her Majesty's ships of war, or of any British vessel, to receive any such person on board, with a warrant from the said Consul, addressed to the Chief Magistrate of Police of the said colony, and, thereupon to convey him in custody to Hong Kong, and on his arrival there to deliver him, with the said warrant, into the custody of the said Chief Magistrate of Police, or other officer within the said colony lawfully acting as such, who, on the receipt of the said warrant, and of the party therein named, shall be authorized to commit, and shall commit, such party so sent for trial to any jail of or in the said colony, and it shall be lawful for the keeper of the said jail to cause such party to be detained in safe and proper custody, and to be produced upon the order of the said Supreme Court; and the Supreme Court at the sessions to be next holden shall proceed to hear and determine the charge against such party in the same manner as if the crime with which he may be charged had been committed within the colony of Hong Kong.



all suits of a civil nature between British subjects arising within any parts of the dominions of the Emperor of Japan: provided always that the Supreme Court shall not be bound, unless in a fit case it shall deem it right so to do, by writ of *certiorari* or otherwise, to debar or prohibit the Consul from hearing and determining, pursuant to the provisions of the several Articles of this Order, any suit of a civil nature between British subjects, or to stay the proceedings of the Consul in any such matter.

Consuls may promote Reconcilement in cases of Assault.

XXIX. And it is further ordered, that in cases of assault not coming within the terms of Article XXII of this Order, it shall be lawful for the Consul before whom complaint is made, to promote reconciliation between the parties, and to suffer compensation and amends to be made, and the proceedings thereby to be stayed.

Definition of Crimes and Offences and Misdemeanours.

XXX. And it is further ordered, that save and except as regards offences committed by British subjects against the stipulations of Treaties between Her Majesty and the Tycoon of Japan, or against rules and regulations for the observance of the stipulations of such Treaties, duly affixed and exhibited according to the provisions of Article V of this Order, or against rules and regulations for the peace, order, and good government of Her Majesty's subjects being within the dominions of the Tycoon of Japan, duly exhibited and affixed as aforesaid, and save and except as regards the offence of engaging in trade, declared in Article XXXII of this Order to be unlawful, no act done by a British subject being within the dominions of the Tycoon of Japan, shall be deemed and taken to be a crime or misdemeanour, or offence, rendering the person committing it liable to punishment, which, if done within that part of Her Majesty's dominions called England, would not, by a court of justice having criminal jurisdiction in England, have been deemed and taken to be a crime or misdemeanour, or offence, rendering the person so committing it liable to punishment.

Minutes of proceedings before Consuls to be drawn up and preserved.

XXXI. And it is further ordered, that a minute of the proceedings in every case heard and determined before a Consul, in pursuance of this Order, shall be drawn up and signed by the Consul, and shall, in cases when Assessors are present, be open for the inspection of such Assessors, and for their signature if they shall concur therein; and such minute, together with the depositions of the witnesses, shall be preserved in the public office of the said Consul, and a copy of every such minute and of such depositions

shall, if the Consul-General see fit to require them, be transmitted by the Consul to the said Consul-General.

Trade of British Subjects in contravention of Treaty of Japan declared Unlawful and Punishable.

XXXII. And whereas it is stipulated in and by the said Treaty agreed upon and concluded between Her Majesty and his said Majesty the Tycoon of Japan as aforesaid, that the ports and towns of Hakodadi, Kanagawa, and Nagasaki, shall be opened to British subjects on the 1st day of July, 1859, and that, in addition thereto, the following ports and towns shall be opened to them at the dates thereinafter and hereinafter specified, that is to say, Nee-e-gata, or if Nee-e-gata be found unsuitable as a harbour, another convenient port on the west coast of Nipon, on the 1st day of January, 1860, and Hiogo on the 1st day of January, 1863:

Now it is hereby further ordered, that all trade whatsoever of Her Majesty's subjects, in, to, or from any part of the dominions of the Tycoon of Japan, excepting the ports and towns aforesaid, and all trade whatsoever of Her Majesty's subjects in, to, or from any of the ports and towns aforesaid, before the respective days and times specified in the said Treaty as aforesaid, shall be and the same is hereby declared to be unlawful, and every person engaged in such trade as a principal, agent, shipowner, shipmaster, or supercargo, shall be liable to be apprehended by any of Her Majesty's Consuls, and shall, when so apprehended, be sent by him to Jeddo, in any of Her Majesty's ships of war, or in any British ship or vessel, for trial before the Consul-General. And it shall be lawful for the Commander of Her Majesty's ships of war, or any British ship or vessel, to receive any such person on board, under a warrant from the said Consul, addressed to the Consul-General, and thereupon to convey



duly authorized in that behalf, to seize any ship or vessel under the British flag which may reasonably be suspected of having been engaged, or of being engaged, in any trade declared by the next preceding Article of this Order to be illegal, and to bring such ship or vessel, and the master, officers, supercargo, and crew thereof to Jeddo, and there to detain such ship or vessel, and the master, officers, supercargo, and crew thereof, until the said Consul-General shall have tried and determined the charge which may be brought against them, or any of them, in respect of such unlawful trade as aforesaid.

Enforcement of Fines and Penalties.

XXXIV. And it is further ordered, that all fines and penalties imposed by or under this Order may be enforced and levied by distress and seizure, and sale of ships, and goods, and chattels, and no bill of sale, mortgage, or transfer of any property whatsoever, made after the apprehension of any person for any offence against, or cognizable under, any of the provisions of this Order, or with a view to security or indemnity against any such offence to be thereafter committed, shall be of any force or avail whatsoever to defeat or affect the operation of any of the provisions of this Order.

Rules of practice, and Regulations for expenses of witnesses, and rates of fees in Civil Suits to be established.

XXXV. And it is further ordered, that it shall be lawful for the Consul-General from time to time, to establish rules of practice to be observed in proceedings before the said Consul, and to make regulations for defraying the expenses of witnesses in such proceedings, and the costs of criminal prosecutions, and also to establish rates of fees to be taken in regard to Civil suits heard and determined before the said Consul, and it shall be lawful for the said Consul to enforce by distress and seizure and sale of goods, or, if there be no goods, by imprisonment, the payment of such established fees, and of such expenses as may be adjudged against the parties or any of them: provided always, that a table specifying the rates of fees to be so taken shall be affixed and kept exhibited in the public office of the said Consul.

Appropriation of Fees, Penalties, &c.

XXXVI. And it is further ordered, that all fees, penalties, fines, and forfeitures, levied under this Order, save and except such penalties as may by Treaty be payable to the Japanese Government, shall be paid to the public account, and be applied in diminution of the public expenditure on account of the Consular establishment in

Japan: provided always, that in the event of the Japanese authorities declining to receive any fine payable to the Japanese Government as aforesaid, the same shall be paid to the public account and applied in the manner last mentioned.

Consuls may grant Probate, and administer to Intestate Estates.

XXXVII. And it is further ordered, that it shall be lawful for any of Her Majesty's Consuls to grant probate of the will, or letters of administration of the intestate estate, of a British subject deceased and leaving property within the limits of the district within which such Consul shall exercise authority; and in the case of a party so deceased, either leaving a will or intestate, it shall be lawful for the Consul, provided that probate of the will, or letters of administration to the estate, of the party deceased, shall not have been applied for within 30 days by any person lawfully entitled thereto, to administer to such estate, and to reserve to himself, out of the proceeds of such estate, a commission not exceeding two and a-half per centum on such proceeds.

Register of British Subjects to be kept.

XXXVIII. And it is further ordered, that a register shall be kept by each and every of Her Majesty's Consuls, of all British subjects residing within the ports, places, or districts of Japan within his jurisdiction; and that every British subject now residing within the dominions of the Tycoon of Japan shall, within a reasonable time after the commencement and taking effect of this Order, to be specified in a notice to be affixed and publicly exhibited in the Consular Office, apply to the Consul of the district to be enrolled in such register; and every British subject who may arrive within the said



Consuls may exercise powers of Justices of the Peace for enforcement of Acts relating to Seamen and Mercantile Marine.

XXXIX. And it is further ordered, that the Consul within his Consular district may exercise any of the powers which by any Acts of the Imperial Parliament, now enacted or hereafter to be enacted, for the regulation of merchant seamen, or for the regulation of the mercantile marine, may be exercised by one or more Justices of the Peace within Her Majesty's dominions.

Consuls in Japan may perform all acts which may be performed by British Consuls elsewhere.

XL. And it is further ordered, that nothing in this Order contained shall be taken or construed to preclude a British Consul within the dominions of the Tycoon of Japan from performing any act of administration or jurisdiction, or other act, which British Consuls within other States in amity with Her Majesty, are by law, usage, or sufferance, enabled to perform.

Limitation of Actions and Suits.

XLI. And it is further ordered, that any suit or action brought against any person by reason of anything done under the authority and in execution of the power or jurisdiction of Her Majesty, entrusted to him by this Order, or in execution of any of the provisions of this Order, shall be commenced within 6 calendar months after the fact committed, and not otherwise; and the defendant in every such action or suit shall be entitled to the benefit of the provisions made with respect to defendants in actions or suits in an Act passed in the 6th and 7th years of Her Majesty, entitled "An Act to remove doubts as to the exercise of power and jurisdiction by Her Majesty, within divers countries and places out of Her Majesty's dominions, and to render the same more effectual."

And the Right Honourable the Lord John Russell, and his Grace the Duke of Newcastle, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty are to give the necessary directions herein, as to them may respectively appertain.

WM. L. BATHURST.

BRITISH ORDER IN COUNCIL, for the Apprehending and Delivering up of Seamen, Deserters from Russian Merchant Vessels in the British Dominions.—August 27,* 1860.

At the Court at Balmoral, the 27th day of August, 1860.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the "Foreign Deserters Act, 1852,†" [cap. 26], it is provided that, whenever it is made to appear to Her Majesty that due facilities are or will be given for recovering and apprehending seamen who desert from British merchant ships in the territories of any foreign Power, Her Majesty may, by Order in Council, stating that such facilities are or will be given, declare that seamen, not being slaves, who desert from merchant ships belonging to a subject of such Power, when within Her Majesty's dominions, shall be liable to be apprehended and carried on board their respective ships; and may limit the operation of such Order, and may render the operation thereof subject to such conditions and qualifications, if any, as may be deemed expedient:

And whereas it has been made to appear to Her Majesty, that due facilities will be given for recovering and apprehending seamen who desert from British merchant ships, in the dominions and possessions of His Majesty the Emperor of all the Russias.

Now, therefore, Her Majesty, by virtue of the power vested in her by the said "Foreign Deserters Act, 1852," and by and with the advice of her Privy Council, is pleased to order and declare, and it is hereby ordered and declared, that from and after the publication hereof in the "London Gazette," seamen, not being slaves, and not being British subjects, who, within Her Majesty's dominions,



BRITISH ORDER IN COUNCIL, for the Apprehending and Delivering up of Seamen, Deserters from Nicaraguan Merchant Vessels in the British Dominions.—August 27, 1860.*

At the Court at Balmoral, the 27th day of August, 1860.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the "Foreign Deserters Act, 1852," [cap. 26],† it is provided that, whenever it is made to appear to Her Majesty, that due facilities are or will be given, for recovering and apprehending seamen who desert from British merchant ships in the territories of any foreign Power, Her Majesty may by Order in Council, stating that such facilities are or will be given, declare that seamen, not being slaves, who desert from merchant ships belonging to a subject of such Power, when within Her Majesty's dominions, shall be liable to be apprehended, and carried on board their respective ships; and may limit the operation of such Order, and may render the operation thereof subject to such conditions and qualifications, if any, as may be deemed expedient.

And whereas it has been made to appear to Her Majesty, that due facilities will be given for recovering and apprehending seamen who desert from British merchant ships in the territories of the Republic of Nicaragua.

Now, therefore, Her Majesty, by virtue of the power vested in her by the said "Foreign Deserters Act, 1852," and by and with the advice of her Privy Council, is pleased to order and declare, and it is hereby ordered and declared, that from and after the publication hereof in the "London Gazette," seamen, not being slaves, and not being British subjects, who, within Her Majesty's dominions, desert from merchant ships belonging to citizens of the Republic of Nicaragua shall be liable to be apprehended and carried on board their respective ships: provided always, that if any such deserter has committed any crime in Her Majesty's dominions, he may be detained till he has been tried by a competent court, and until his sentence, if any, has been carried into effect.

And the Right Honourable the Lords Commissioners of Her Majesty's Treasury, and the Secretary of State for India in Council, are to give the necessary directions herein accordingly.

EDMUND HARRISON.

* "London Gazette" of August 28, 1860.

† Vol. XLI. Page 680.

BRITISH ORDER IN COUNCIL, for the regulation of British Consular Jurisdiction in the Dominions of the Sublime Ottoman Porte.—August 27, 1860.*

At the Court at Balmoral, the 27th day of August, 1860.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Act of the session of Parliament of the 6th and 7th years of Her Majesty's reign [cap. 94],† intituled "An Act to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual," hereinafter called "The Foreign Jurisdiction Act," it was enacted (amongst other things), that it was and should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had or might at any time thereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory:

And whereas Her Majesty has had and now has power and jurisdiction in the dominions of the Sublime Ottoman Porte:

And whereas Her Majesty was pleased on the 2nd day of October, 1843,‡ the 19th day of June, 1844,§ the 24th day of April, 1847,‖ and the 27th day of August, 1857,¶ by and with the advice of Her Privy Council, to make, by several Orders in Council dated the said days respectively, provision for the exercise of her power and jurisdiction aforesaid:

And whereas it hath seemed to Her Majesty, by and with the advice of Her Privy Council, to be expedient at the present time to

I.—*Preliminary.*

I. The present Order shall come into operation on the 1st day of March, 1861, and shall be read as if made and dated on that day.

II. The said 4 Orders shall be repealed.

The repeal shall not affect anything done under the said Orders or any of them.

Pending proceedings shall be regulated by the present Order as far as the nature and circumstances of each case will admit.

III. In the present Order, and in any rules made under it, words importing the plural or the singular may be construed as referring to one person or thing, or more than one person or thing, and words importing the masculine as referring to females (as the case may require).

II.—*General Provisions as to Her Majesty's Jurisdiction in the Dominions of the Sublime Ottoman Porte.*

IV. All Her Majesty's jurisdiction exercisable in the dominions of the Sublime Ottoman Porte for the judicial hearing and determination of suits or matters in difference between British subjects, or between British subjects and subjects of the Sublime Ottoman Porte, or between British subjects and subjects or citizens of any other State, or for the administration or control of the property or persons of British subjects, or for the repression or punishment of crimes for offences committed by British subjects, or for the maintenance of order among British subjects, or for any purpose connected therewith respectively, shall be exercised under and according to the provisions of the present Order, and not otherwise.

V. Subject to the other provisions of the present Order, the civil and criminal jurisdiction aforesaid may and shall, as far as circumstances will admit, be exercised upon the principles of and in conformity with the common law, the rules of equity, the statute law, and other law, for the time being in force in and for England, and with all the powers vested in and pursuant to the course of procedure and practice observed by and before courts of justice and justices of the peace in England, according to their respective jurisdictions and authorities.

VI. Except as to offences against the capitulations, articles of peace, and Treaties between Her Majesty and the Sublime Ottoman Porte, or against any rules and regulations for the observance thereof or the maintenance of order among British subjects in the dominions of the Sublime Ottoman Porte made by or under the authority of Her Majesty, or against any of the provisions of the present Order, or any rule made under it, and except as to offences expressly made such by the present Order, or any other Order for the time being in force.

No act done by a British subject in the dominions of the Sublime Ottoman Porte or on board a British vessel within the same dominions, which would not by a court of justice having criminal jurisdiction in England be deemed to be a crime or offence rendering the person doing the act amenable to punishment in England shall, in the exercise of criminal jurisdiction under the present Order be deemed to be a crime or offence rendering the person doing the act amenable to punishment.

III.—*Constitution of Her Majesty's Consular Courts.*

1.—*The Supreme Consular Court at Constantinople.*

VII. There shall be a court styled "Her Britannic Majesty's Supreme Consular Court for the Dominions of the Sublime Ottoman Porte."

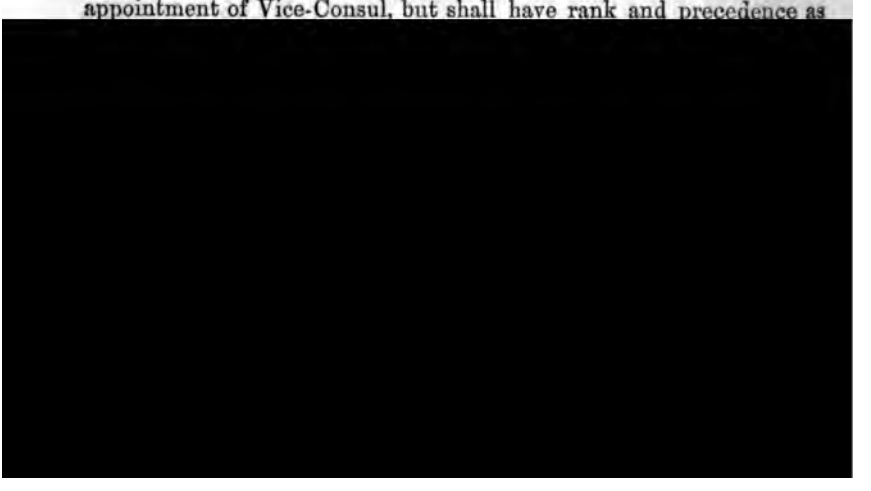
VIII. The Supreme Consular Court shall hold its ordinary sittings at Constantinople; but may, in case of emergency, sit at any other place within the district of the Consulate-General of Constantinople, and may at any time hold its ordinary sittings at any such place within the dominions of the Sublime Ottoman Porte as one of Her Majesty's Principal Secretaries of State may approve.

IX. There shall be one judge of the court.

He shall be appointed by Her Majesty by warrant under her Royal Sign Manual.

He shall be, at the time of his appointment, a member of the Bar of England, Scotland, or Ireland, of not less than 7 years' standing; or a British subject, who shall have filled the office of Legal Vice-Consul Cancellier in the Levant, or the office of law secretary to the Supreme Consular Court.

He shall hold by special commission from Her Majesty the appointment of Vice-Consul, but shall have rank and precedence as



XI. The Legal Vice-Consul Cancellier and the law secretary shall be appointed by Her Majesty.

They shall respectively hold by special commission from Her Majesty the appointment of Vice-Consul; but the legal Vice-Consul Cancellier shall always have rank and precedence above the law secretary.

The legal Vice-Consul Cancellier shall act as registrar of the court.

The law secretary shall discharge such duties in connection with the conduct of criminal prosecutions, as the judge may from time to time direct.

The legal Vice-Consul Cancellier shall hear and determine in a summary way such criminal charges as may under the present Order be properly so heard and determined, and as may be specially referred to him by the judge.

The law secretary shall hear and determine in a summary way such criminal charges as may, under the present Order, be properly so heard and determined, and as the judge may from time to time think necessary for the despatch of urgent business to refer specially to him.

Where a suit or proceeding of a civil nature, originally instituted in the Supreme Consular Court, relates to money, goods, or other property, or any civil right or other matter at issue of a less amount or value than 100*l.* sterling, or is instituted for the recovery of damages of a less amount than 100*l.* sterling, it shall be lawful for the judge to refer such suit or proceeding specially to the legal Vice-Consul Cancellier to be heard and determined by him, or if it shall appear to the judge necessary for the despatch of urgent business so to do, to refer any such suit or proceeding specially to the law secretary to be heard and determined by him; and the legal Vice-Consul Cancellier, or law secretary (as the case may be) shall hear and determine the same accordingly; but in all such cases an appeal shall lie as of course to the judge.

2.—*The Consular Courts in the Provinces.*

XII. Each of Her Majesty's Consuls-General, Consuls, and Vice-Consuls, resident in the dominions of the Sublime Ottoman Porte (with the exception of Her Majesty's Consul-General at Constantinople, and with such other exceptions as one of Her Majesty's Principal Secretaries of State may at any time think fit to make) for and in his own Consular district shall hold and form a court styled "Her Britannic Majesty's Consular Court at [Smyrna, or as the case may be]."

Provided always, that no Vice-Consul shall be competent to hold a Consular Court unless he holds a commission as Vice-Consul

from Her Majesty; but any person acting temporarily, with the approval of one of Her Majesty's Principal Secretaries of State, as Consul-General, Consul, or Vice-Consul, shall be competent to hold a Consular Court.

IV.—*Jurisdiction and Powers of the Consular Courts.*

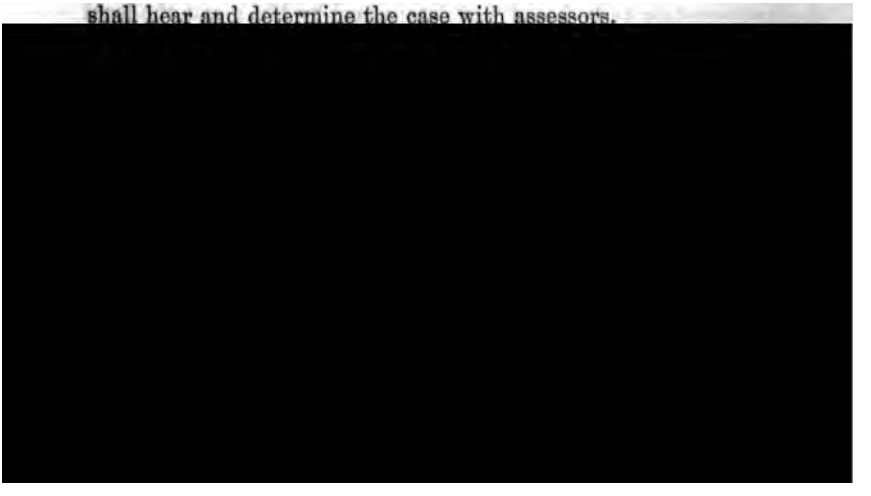
1.—*In General.*

XIII. All Her Majesty's jurisdiction, civil and criminal, exercisable in the dominions of the Sublime Ottoman Porte shall, for and within the district of the Consulate-General of Constantinople, be vested exclusively in the Supreme Consular Court as its ordinary original jurisdiction.

XIV. All Her Majesty's jurisdiction, civil and criminal, exercisable in the dominions of the Sublime Ottoman Porte beyond the district of the Consulate-General of Constantinople, and not under the present Order vested exclusively in the Supreme Consular Court, shall, to the extent and in the manner provided by the present Order, be vested in the several Provincial Consular Courts each for and within its own district.

XV. Where a suit or proceeding of a civil nature instituted in a Provincial Consular Court does not relate to money, goods, or other property of the amount or value of 300*l.* sterling, or upwards, or does not relate to or involve, directly or indirectly, a question respecting any civil right or other matter at issue of the amount or value of 300*l.* sterling, or upwards, or is not brought for the recovery of damages of the amount of 300*l.* sterling or upwards, the court shall have jurisdiction to hear and determine the case without assessors.

In all cases other than those hereinbefore described, the court shall hear and determine the case with assessors.



sular Court shall thereupon direct in what mode and where the case shall be heard and determined, and the same may and shall be so heard and determined accordingly.

XIX. The Supreme and every other Consular Court shall, in the exercise of every part of its respective jurisdiction, be a Court of Record.

XX. Each Provincial Consular Court may and shall execute any writ or order issuing from the Supreme Consular Court, and take security from any person named in any writ or order for his appearance personally or by attorney, and may, in default of such security being given, or when specially ordered by the Supreme Consular Court so to do, send the person named to Constantinople on board one of Her Majesty's vessels of war, or if there shall be no such vessel available for the purpose, then on board any British or other fit vessel.

The order of the Supreme Consular Court shall be sufficient authority to the commander or master of any such vessel of war or other vessel to receive and detain such person, and carry him to and deliver him up at Constantinople in obedience to and in pursuance of such order.

XXI. The Supreme and every other Consular Court shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

2.—*In Civil Matters.*

XXII. The Supreme Consular Court and its several officers and every other Consular Court shall, as far as there may be proper opportunity, promote reconciliation and encourage and facilitate the settlement in an amicable way, and without recourse being had to litigation, of matters in difference between persons over whom the court has jurisdiction.

XXIII. The Supreme and every other Consular Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way, of any suit or proceeding pending before it.

XXIV. The Supreme or other Consular Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties to the suit or proceeding, on such terms and with such directions as to appointment of an arbitrator and other things as may seem fit, and may, if it thinks fit, take from the parties, or any of them, security to abide by the result of the reference.

In any such case the award shall be final and conclusive.

On the application of any party, a decree of the court may be

entered in conformity with the award, and no such decree shall be open to any appeal or re-hearing whatever.

XXV. Every agreement for reference to arbitration or submission to arbitration by consent between or by British subjects, may, on the application of any party, be made a rule of the Supreme or other Consular Court having jurisdiction in the matter of the reference or submission, which court shall thereupon have power and authority to enforce the agreement or submission, and the award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as may be just.

XXVI. The Supreme and every other Consular Court shall be a court of law and of equity; and (subject to the other provisions of the present Order) shall have and may exercise all jurisdiction, power, and authority, legal, equitable, or other, which any Consul of Her Majesty by custom has or may exercise in the dominions of the Sublime Ottoman Porte.

XXVII. The Supreme and every other Consular Court shall be a Court of Bankruptcy and Insolvency, and as such shall, as far as circumstances will admit, have, each for and within its own district, with respect to British subjects, and to their debtors and creditors being British subjects, or being subjects of the Sublime Ottoman Porte, or subjects or citizens of any other State, and submitting to the jurisdiction of the court, all such jurisdiction as for the time being belongs to the Court of Bankruptcy, the Court for the Relief of Insolvent Debtors, and the County Courts respectively, in England, or to such other judicial authority or authorities as for the time being has or have jurisdiction in England in matters of bankruptcy, insolvency, or protection.

XXVIII. The Supreme Consular Court shall, as far as circum-

nullity or jactitation of marriage as for the time being belongs to the Court for Divorce and Matrimonial Causes in England.

XXX. The Supreme Consular Court shall be a Court of Probate, and as such shall, as far as circumstances will admit, have for and within the dominions of the Sublime Ottoman Porte, with respect to the property of British subjects having at the time of death a fixed place of abode within such dominions, all such jurisdiction as for the time being belongs to Her Majesty's Court of Probate in England.

Provided always, that a Provincial Consular Court shall have power to grant probate or administration where there is no contention as to the right to the grant, and it is proved on oath that the deceased had at the time of his death a fixed place of abode within the jurisdiction of the particular court.

Every probate or administration granted by a Provincial Consular Court, shall have effect over all the property of the deceased within the dominions of the Sublime Ottoman Porte, and shall under all circumstances effectually discharge all persons paying to or dealing with an executor or administrator thereunder, notwithstanding that any defect may afterwards appear in the grant; and no such grant shall be impeached by reason only that the deceased had not at the time of his death a fixed place of abode within the particular district.

Any person having in his possession or under his control any paper or writing of the deceased being or purporting to be testamentary, shall forthwith bring the original to the Supreme or other Consular Court, and deposit it there.

Any person neglecting so to do for 14 days after having knowledge of the death of the deceased, shall be liable to such penalty, not exceeding 50*l.* sterling, as the court may think fit to impose.

Where it is shown to the satisfaction of the Supreme or other Consular Court that any paper purporting to be testamentary is in the possession or under the control of any person, the court may, in a summary way, whether a suit or proceeding as to probate or administration is pending or not, order him to produce and bring into court such paper.

Where it appears to the Supreme or other Consular Court that there are reasonable grounds for believing that any person has knowledge of any paper purporting to be testamentary (although it is not shown to the satisfaction of the court that the paper is in his possession or under his control), the court may in a summary way, whether a suit or proceeding for probate or administration is pending or not, order him to attend for the purpose of being examined respecting the same in open court, or on interrogatories

and, after examination, to produce the paper and bring it into court.

Any person failing to attend or to be examined, or to produce and bring in the paper accordingly, shall be liable to the same consequences as he would be liable to if he were a party to a suit in the court, and had made like default.

From and after the death of an intestate having at the time of death a fixed place of abode within the dominions of the Sublime Ottoman Porte, and until administration granted, the personal property of the intestate within the dominions of the Sublime Ottoman Porte, shall be vested in the Judge of the Supreme Consular Court, as the personal property of an intestate in England is vested in the Judge of Her Majesty's Court of Probate there.

If any person, other than one of Her Majesty's Consular officers, takes possession of, and in any manner administers any part of the personal property of any person deceased without obtaining probate or administration within 3 calendar months after the death of the deceased, or within one calendar month after the termination of any suit or dispute respecting probate or administration (if there shall be any such which shall not be ended within two calendar months after the death of the deceased), he shall be liable to forfeit a sum not exceeding 100*l.* sterling.

XXXI. Where a British subject, not having at the time of death a fixed place of abode in the dominions of the Sublime Ottoman Porte, dies in those dominions, the Supreme or other Consular Court, within whose district he dies, shall, where the circumstances of the case appear to the court so to require, forthwith on the death of the deceased, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the court (in either case, if the nature of the property or other



Provincial Consular Court may, if it considers it just and expedient so to do, give leave to appeal on the like terms.

3.—*In Criminal Matters.*

XXXIII. The Supreme and every other Consular Court shall have power and authority to cause to be apprehended and brought before it any British subject being within the district of the court and charged with having committed any crime or offence within the dominions of the Sublime Ottoman Porte, or on board any British vessel being within the same dominions, and to deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of the present Order; or where the crime or offence is triable, and is to be tried, in England, to take the preliminary examination, and to commit the accused for trial and cause or allow him to be taken to England.

XXXIV. The Supreme and every other Consular Court may promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings for assault or any other offence of a private or personal character, on terms of payment of compensation or other terms that may seem reasonable or expedient, and may thereupon order the proceedings to be stayed.

XXXV. Whenever any person shall be convicted before the Supreme Consular Court of the crime of murder, the proper officer of the court, under its direction, shall, in open court, require the offender to state if such offender hath or knoweth anything to say why judgment of death should not be recorded against such offender; and in case such offender shall not allege any matter or thing sufficient in law to prevent such judgment if the offence had been committed and the trial had taken place in England, the court may order the same to be entered on record, and thereupon such proper officer as aforesaid shall enter judgment of death on record against such offender, as if judgment of death had been actually pronounced in open court against such offender by the said court.

The Supreme Consular Court shall have power to impose the punishment of imprisonment for any term not exceeding 20 years, with or without hard labour, and with or without a fine not exceeding 500*l.* sterling, or the punishment of a fine alone not exceeding 500*l.* sterling.

XXXVI. All crimes which in England are capital shall be tried by the Judge of the Supreme Consular Court with a jury.

Other crimes and offences above the decree of misdemeanour, tried before the Judge or any officer of the Supreme Consular Court and not heard and determined in a summary way, shall be tried by jury.

Any crime or offence tried before the Judge or any officer of the

Supreme Consular Court may be tried by jury where the Judge or other officer so directs.

Subject to the foregoing provisions, such classes of cases within the original jurisdiction of the Supreme Consular Court as the judge, having regard to the law and practice existing in England, may from time to time direct, shall be heard and determined in a summary way.

A jury shall consist of six indifferent British subjects of good repute resident in the district of the Consulate-General of Constantinople, or in the other Consular district in which the Judge or other officer of the Supreme Consular Court is, for the time being, sitting for criminal trials (as the case may require).

XXXVII. The Judge of the Supreme Consular Court shall forthwith send a report of every sentence of death recorded by such court, together with a copy of the minutes of proceedings and notes of evidence and any recommendation that he may desire to make, to one of Her Majesty's Principal Secretaries of State, for his direction as to the amount and nature of the punishment to be actually imposed, as and by way of a commuted punishment, such actual or commuted punishment not to exceed the measure of imprisonment and fine mentioned in Article XXXV.

XXXVIII. Where a Provincial Consular Court is held before a resident legal Vice-Consul Cancellier, it shall have power to impose the punishment of imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 100*l.* sterling, or the punishment of a fine alone not exceeding 100*l.* sterling.

In other cases a Provincial Consular Court shall not have power to impose punishment exceeding imprisonment for 12 months, with or without hard labour, and with or without a fine of 50*l.* sterling,

forthwith send them, with a minute of other evidence, if any, and a report on the case, to the Supreme Consular Court.

The Supreme Consular Court shall direct in what mode and where the case shall be heard and determined, and the same may and shall be heard and determined accordingly.

XLI. Where the crime or offence with which any person is charged before a Provincial Consular Court is not assault endangering life, cutting, maiming, arson, or housebreaking, and appears to the Court to be such that, if proved, it would be adequately punished by imprisonment, with or without hard labour, for not more than 3 months, or by a fine of not more than 25*l.* sterling, the court shall hear and determine the case in a summary way and without assessors.

In all cases other than those hereinbefore described, the court shall hear and determine the case on indictment and with assessors.

XLII. Where a person charged with a crime or offence escapes or removes from the Consular district within which the crime or offence was committed and is found within another Consular district, the Supreme or other Consular Court within the district of which he is found may proceed in the case to examination, trial, and punishment, or in a summary way (as the case may require), in the same manner as if the crime or offence had been committed in its own district; or may, on the requisition or with the consent of the court of the district within which the crime or offence was committed, send him in custody to the last-mentioned court, or require him to give security for his surrender to that court, there to answer the charge and be dealt with according to law.

Where any person is to be so sent in custody a warrant in that behalf shall be issued by the Supreme or other Consular Court within the district of which he is found, and every such warrant shall be a sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up to the court of the district within which the crime or offence was committed, in obedience to and in pursuance of such warrant.

XLIII. The Supreme or other Consular Court may order any person convicted before it of any crime or offence to pay all or any part of the expenses of his trial and imprisonment or other punishment, and where it appears to the court that a charge is malicious, or frivolous and vexatious, may order all or any part of the expenses of the prosecution to be paid by the prosecutor.

XLIV. Where the circumstances of the case render it just or expedient, the Judge of the Supreme Consular Court may report to one of Her Majesty's Principal Secretaries of State in favour of and recommending a mitigation or remission of any punishment

awarded by the Supreme or any other Consular Court; and on such recommendation any such punishment may be mitigated or remitted.

Provided always, that no such recommendation shall he made with reference to any punishment awarded by a Provincial Consular Court, except on the recommendation of that Court, or on the dissent of the assessors or assessor, if any, from the conviction, or from the amount of punishment awarded.

XLV. Malta shall be and is hereby (in pursuance of the Foreign Jurisdiction Act, section IV) appointed as the British colony to which any person may be sent for trial who is charged with the commission of any crime or offence the cognizance whereof appertains to the Supreme or other Consular Court within the dominions of the Sublime Ottoman Porte, where it is expedient that the crime or offence should be inquired of, tried, determined, and punished within Her Majesty's dominions.

The Judge of the Supreme Consular Court may, where it appears to him expedient as aforesaid, by warrant under his hand and seal and under the seal of the Supreme Consular Court, cause the person so charged to be sent for trial to Malta accordingly.

Such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up at Malta, in obedience to and in pursuance of such warrant.

Where any person is to be so sent to Malta, the Supreme or other Consular Court before which he is charged, shall take the preliminary examination, and shall bind over such of the proper witnesses as may be British subjects in their own recognizances to appear and give evidence on the trial.

XLVI. The Supreme Consular Court shall forthwith send to



colony to which any offender sentenced to suffer imprisonment for or in respect of any crime or offence of which he has been lawfully convicted before any Consular Court may be sent, where it is expedient that the sentence passed in the dominions of the Sublime Ottoman Porte should be carried into effect within Her Majesty's dominions.

The Judge of the Supreme Consular Court may, where it appears to him so to be expedient as aforesaid, by warrant under his hand and seal and the seal of the Supreme Consular Court, cause such offender to be sent to Malta, in order that the sentence passed upon him may be there carried into effect accordingly.

Such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up at Malta, in obedience to and in pursuance of such warrant.

XLVIII. The Judge of the Supreme Consular Court may, where it seems to him expedient, by warrant under his hand and the seal of the Supreme Consular Court, cause any offender convicted before any Consular Court and sentenced to imprisonment, to be sent to and imprisoned at any such place in the dominions of the Sublime Ottoman Porte, as one of Her Majesty's Principal Secretaries of State may, from time to time, approve.

Such warrant shall be sufficient authority to any person to whom it is directed, to receive and detain the person therein named, and carry him to and deliver him up at such place, in obedience to and in pursuance of such warrant.

XLIX. If any British subject shall be guilty of publicly deriding, mocking, or insulting any religion established or observed within the dominions of the Sublime Ottoman Porte,—or of publicly offering any insult to any religious service, feast, or ceremony established or kept in any part of such dominions, or to any place of worship, tomb, or sanctuary belonging to any such religion, or to the ministers or professors thereof,—or shall wilfully commit any act tending to bring any such religion, or its ceremonies, mode of worship, or observances into ridicule or contempt, and thereby to provoke a breach of the public peace,—every such British subject shall, on conviction thereof, be liable to punishment (in the discretion of the court) by imprisonment for not more than two years, with or without hard labour, and with or without a fine of not more than 100*l.* sterling, or a fine of not more than 100*l.* sterling alone.

Notwithstanding anything in the present Order contained, every charge against a British subject of having committed any such offence shall be heard and determined in a summary way, and any Provincial Consular Court shall have power to impose the punishment aforesaid.

Her Majesty's Consular officers shall take such precautionary measures as may seem to them proper and expedient for the prevention of such offences.

L. (1.) Where it is shown on oath, to the satisfaction of the Supreme or other Consular Court, that there is reasonable ground to apprehend that any British subject in the dominions of the Sublime Ottoman Porte is about to commit a breach of the public peace, or that the acts or conduct of any such British subject are or is likely to produce or excite to a breach of the public peace, the Court may cause him to be brought before it and require him to give security to the satisfaction of the Court, to keep the peace, or for his future good behaviour, as the case may require.

(2.) Where any British subject is convicted of any crime or offence before the Supreme or other Consular Court, or before a Court, in the sentence of which the Judge of the Supreme Consular Court, or any of Her Majesty's Consuls-General, Consuls, or Vice-Consuls concur, the Supreme or other Consular Court for the district in which he happens to be may require him to give security to the satisfaction of the Court for his future good behaviour.

In either of the cases aforesaid, if the person required to give security fails so to do, the Court may order that he be deported from the dominions of the Sublime Ottoman Porte to such place as the Court may direct: provided always, that the Court shall not, without the consent of the person to be deported, direct the deportation of a native of Malta or any of its dependencies to any place other than Malta, or of a native of Gibraltar to any place other than Gibraltar, or of a native of any part of Her Majesty's dominions other than Malta, its dependencies, or Gibraltar, to any place other than England.

Each provincial Consular Court shall forthwith report to the Supreme Consular Court any order of deportation made by it, and the grounds thereof. The Supreme Consular Court may reverse the order, or may confirm it with or without variation, and in case of confirmation, shall direct it to be carried into effect, and shall issue its warrant in that behalf.

The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

He shall, as soon as may be practicable (and in the case of a person convicted as aforesaid, either after execution of the sentence or at any time while the sentence is in course of execution) be embarked in custody under the warrant of the Supreme Consular Court on board one of Her Majesty's vessels of war, or, if there shall be no such vessel available for the purpose, then on board any British, Maltese, Ionian, or other fit vessel, bound to the place of deportation.

The warrant of the court shall be sufficient authority to the commander or master of such vessel of war, or other vessel, to receive the person to be deported and convey him in custody to the place of deportation.

The Supreme or other Consular Court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed as the expenses relating to distressed British subjects are defrayed, or in such other manner as one of Her Majesty's Principal Secretaries of State may from time to time direct.

The Supreme Consular Court shall forthwith report to one of Her Majesty's Principal Secretaries of State any order of deportation made or confirmed by it and the grounds thereof, and shall also inform Her Majesty's Ambassador, Minister, or Chargé d'Affaires at the Sublime Ottoman Porte of the same.

If any person deported returns to the dominions of the Sublime Ottoman Porte without the permission of one of Her Majesty's Principal Secretaries of State (which permission the Secretary of State shall have power to give), he shall no longer be entitled to be protected as a British subject in the dominions of the Sublime Ottoman Porte.

V.—*Miscellaneous Provisions.*

LI. Where a Consular Court proceeds to hear and determine any case, civil or criminal, with assessors, the Court shall nominate and summon as assessors not less than two and not more than four indifferent British subjects of good repute resident in the district of the court.

Where, nevertheless, by reason of local circumstances, the court is able to obtain the presence of one fit person only as assessor, the court may sit with him alone as assessor, and where for like reasons it is not able to obtain the presence of any fit person as assessor, it may sit without an assessor; but in every such case the court shall record in the minutes of proceedings its reasons for sitting with one assessor only, or without an assessor.

An assessor shall not have voice or vote in the decision of the court in any case, civil or criminal, but an assessor dissenting in a civil case from any decision of the court, or in a criminal case from any decision of the court or the conviction or the amount of punishment awarded, may record in the minutes of proceedings his dissent and the grounds thereof, and an assessor dissenting shall be entitled to receive gratis a certified copy of the minutes.

LII. In every case, civil or criminal, heard before the Supreme Consular Court, or any officer thereof, or any other Consular Court, a proper minute of the proceedings shall be drawn up, and shall be

signed by the Judge or Consular officer before whom the proceedings are taken, and sealed with the seal of the court, and shall, where assessors are present, be open for their inspection and for their signature if concurred in by them.

The minute, together with depositions of witnesses and notes of evidence taken at the trial by the Judge or Consular officer, shall be preserved in the public office of the court.

LIII. In a civil proceeding the Supreme or other Consular Court may order such costs, or costs, charges, and expenses as to the court seem reasonable to be paid by any party to the proceeding, or out of any fund to which the proceeding relates.

LIV. The Supreme or other Consular Court, either of its own motion, or, in civil cases, on the application of any party to any suit or proceeding or reference to arbitration, may summon as a witness any British subject within the dominions of the Sublime Ottoman Porte.

Any British subject, duly served with such a summons and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly, and not excusing his failure to the satisfaction of the court, shall, over and above any other liability to which he may be subject, be liable to a fine of not more than 100*l.* sterling, or to imprisonment for not more than 30 days, at the discretion of the court.

LV. In civil cases the Supreme or other Consular Court may, where the circumstances of the case appear to justify it, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed by the parties to the suit, proceeding, or reference, or any of them.

LVI. Any person appearing before the Supreme or other Consular Court to give evidence in any suit or proceeding, civil or



LIX. All fees, pecuniary penalties, fines, and forfeitures levied under the present Order (except moneys accruing from a percentage on the estates of bankrupts or insolvents or deceased persons, or on moneys deposited with a Consular officer) shall be carried to the public account, and be applied in diminution of the public expenditure on account of the Consular service in the dominions of the Sublime Ottoman Porte.

LX. Each Provincial Consular Court shall every 6 months furnish to the Supreme Consular Court a full and faithful report of every case, civil and criminal, brought before it, in such form as the Judge of the Supreme Consular Court may from time to time direct.

LXI. The provisions of the present Order, relating to British subjects, shall extend and apply to all subjects of Her Majesty whether by birth or by naturalization, and also to all persons enjoying Her Majesty's protection in the dominions of the Sublime Ottoman Porte.

The provisions of the present Order, relating to British subjects, shall also extend and apply to subjects of the United States of the Ionian Islands resident in or resorting to the dominions of the Sublime Ottoman Porte, save so far as any of such provisions confer or relate to the power of deporting from the dominions of the Sublime Ottoman Porte, or the power of imposing punishment of an amount greater than that which, at the time of the making of the present Order, can be lawfully awarded, in the case of an Ionian subject, by a Consular officer of Her Majesty resident in such dominions. And the provisions of the present Order relating to British vessels shall extend and apply to all vessels navigating under the national commercial flag of the United States of the Ionian Islands.

LXII. Every British subject arriving at any place within the dominions of the Sublime Ottoman Porte where a British Consular office is maintained, except a British subject borne on the muster-roll of a British ship there arriving, shall, within a reasonable time after his arrival (a notification of which time shall be kept exhibited in some conspicuous place in the Consular office), register himself in a register to be kept by the Consular officer.

Any British subject failing so to register himself, and not excusing his failure to the satisfaction of the Consular officer, shall not be entitled to be recognized or protected as a British subject in any difficulties in which he may be involved in the dominions of the Sublime Ottoman Porte.

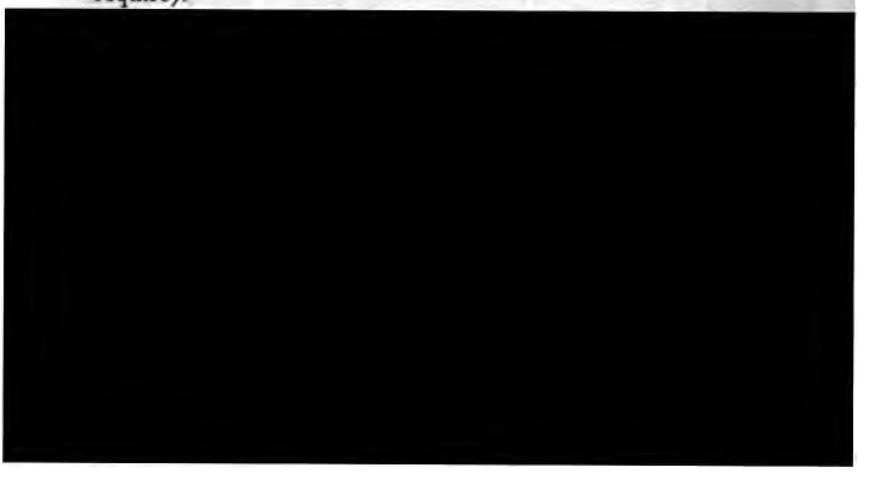
The Consular officer may issue to any person so registered, on the request of such person, a certificate of registration under his hand and Consular seal, and, subject to such regulations as one of Her Majesty's Principal Secretaries of State may from time to time approve of, may charge upon each such certificate a fee of such

amount, not exceeding 5*s.*, as the Secretary of State may from time to time direct.

LXIII. In any case in the decision of which, under the Capitulations, Articles of Peace, and Treaties with the Sublime Ottoman Porte, any of Her Majesty's Consuls may or ought to concur, the Judge of the Supreme Consular Court or any Consul-General, Consul or Vice-Consul exercising jurisdiction under the present Order, shall be competent to act and shall exclusively act on the part and on behalf of Her Majesty.

LXIV. The Supreme or other Consular Court, according to its respective jurisdiction, original or appellate (as the case may require), and in conformity with the rules relating to suits between British subjects and appeals therein, may hear and determine any suit, proceeding, or question of a civil nature, instituted, taken, or raised by a British subject against a subject of the Sublime Ottoman Porte, or a subject or citizen of any other State in amity with Her Majesty, or by a subject of the Sublime Ottoman Porte, or a subject or citizen of any other State in amity with Her Majesty against a British subject:

Provided that the subject of the Sublime Ottoman Porte, or the subject or citizen of such other State as aforesaid, obtains and files in such court the consent in writing of the competent local authority on behalf of the Sublime Ottoman Porte or of the Consul of such other State (as the case may be) to his submitting, and does submit, to the jurisdiction of the Supreme or other Consular Court, and, if required, gives security to the satisfaction of the court, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform any such decision as may be given by the Supreme or other Consular Court originally or on appeal (as the case may require).



required, failing to attend accordingly and not excusing his failure to the satisfaction of the court making the order, shall be liable to a fine of not more than 100*l.* sterling, or to imprisonment for not more than 30 days, at the discretion of the court.

LXVI. The Judge of the Supreme Consular Court may from time to time frame rules for the effectual execution of the present Order, and for the observance of the Capitulations, Articles of Peace, and Treaties between Her Majesty and the Sublime Ottoman Porte, and for the maintenance of order among British subjects in the dominions of the Sublime Ottoman Porte, and for the regulation of procedure and pleading, forms of writs, and other proceedings, expenses of witnesses and prosecutions, costs and fees, in civil and criminal cases, in the Supreme Consular Court and other Consular Courts, and the regulation of appeals to the Supreme Consular Court from the other Consular Courts.

The rules shall be so framed as to secure, as far as may be, that cases shall be decided on their merits according to substantial justice without excessive regard to technicalities of pleading or procedure, and without unnecessary delay.

No rules shall take effect unless and until approved by one of Her Majesty's Principal Secretaries of State.

A copy of the present Order and of the rules for the time being in force shall be affixed and kept open and exhibited in some conspicuous place in the Supreme Consular Court and other Consular Courts respectively, and in every British Consulate in the dominions of the Sublime Ottoman Porte, and printed copies shall be provided and sold at such reasonable price as the Judge of the Supreme Consular Court may from time to time direct.

No penalty shall be enforced for the breach of any rule until the rule has been so affixed, kept open, and exhibited for one calendar month in the court of the district within which the breach of the rules is committed.

For the purpose of convicting any person committing a breach of any rule, and for all other purposes of law, a printed copy of the same, purporting to be certified under the hand of the Judge of the Supreme Consular Court, and the seal of the court or under the hand and consular seal of one of Her Majesty's Consuls-General, Consuls, or Vice-Consuls, shall be taken as conclusive evidence of the same, and no proof of the handwriting or seal purporting to certify the same shall be required.

LXVII. Nothing in the present Order or in the rules to be made under it shall be deemed to deprive the Supreme or any other Consular Court of the right to observe and to enforce the observance of any reasonable custom obtaining within the dominions of the Sublime Ottoman Porte, or to deprive any person of the benefit

thereof, except where the present Order or any rule contains some express and specific provision incompatible with the observance of such custom.

LXVIII. No suit or proceeding shall be commenced in the Supreme or other Consular Court against any person for anything done or omitted under the present Order, or any rule made under it, unless notice in writing is given by the intending plaintiff to the intended defendant one calendar month at least before the commencement of the suit or proceeding, nor unless it is commenced within 6 calendar months next after the act or omission complained of, or in case of a continuation of damage within 6 calendar months next after the doing of such damage has ceased.

The plaintiff shall not succeed in any such suit or proceeding if tender of sufficient amends is made by the defendant before the commencement thereof; and in case no tender has been made the defendant may, by leave of the court, at any time pay into court such sum of money as he may think fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into court in an ordinary suit.

VI.—*Appeal to Her Majesty in Council.*

LXIX. Where any decision of the Supreme Consular Court is given in a civil case in respect of a sum or matter at issue of the amount or value of 500*l.* sterling or upwards, or determines directly or indirectly any claim or question respecting property or any civil right of the amount or value of 500*l.* sterling or upwards, any party aggrieved by the decision may, within 15 days after the same is given, apply by motion to the Supreme Consular Court for leave to appeal to Her Majesty in Council.

In case leave to appeal is applied for by a party adjudged to

[redacted]

In all cases security shall also be given by the appellant to the satisfaction of the court to an amount not exceeding 500*l.* sterling for the prosecution of the appeal, and for payment of all such costs as may be awarded to any respondent by Her Majesty in Council, or by the Lords of the Judicial Committee of Her Majesty's Privy Council.

If the last-mentioned security be given within one calendar month from the filing of the motion-paper for leave to appeal, then, and not otherwise, the Supreme Consular Court shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in Council according to the rules for the time being in force respecting appeals to Her Majesty in Council from her colonies, or such other rules as Her Majesty in Council may from time to time think fit to make concerning appeals from the Supreme Consular Court.

In any case other than the cases hereinbefore described, the Supreme Consular Court, if it considers it just or expedient so to do, may give leave to appeal on the terms and in the manner aforesaid.

The present Order shall not affect the right of Her Majesty at any time, on the humble petition of a party aggrieved by a decision of the Supreme Consular Court, to admit his appeal thereon on such terms and in such manner as Her Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just. And the Right Honourable Lord John Russell, and the Most Noble the Duke of Newcastle, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

EDMUND HARRISON.

ACT of the British Parliament, "to amend the Laws concerning Superannuations and other Allowances to Persons having held Civil Offices in the Public Service."

[22 Vict. cap. 26.] [*April* 19, 1859.]

WHEREAS an Act was passed in the session holden in the 4th and 5th years of King William IV [cap. 24],* "to alter, amend, and consolidate the Laws for regulating the Pensions, Compensations, and Allowances to be made to Persons in respect of their having held Civil Offices in His Majesty's Service:" And whereas by an

* Vol. XXIII. Page 1217.

Act of the session holden in the 20th and 21st years of Her Majesty [cap. 37],* sec. XXVII of the first-recited Act, by which an abatement was directed to be made from the salaries of civil servants entitled to superannuation allowance was repealed: and whereas it is desirable further to amend the said Act as hereinafter mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. Secs. X, XI, XIII, XIV, XV, XVII, XIX, and XXIV of the said Act of the 4th and 5th years of King William IV are hereby repealed, but such repeal shall not affect any pension, compensation, or superannuation allowance granted or act done before the passing of this Act.

II. Subject to the exceptions and provisions hereinafter contained, the superannuation allowance to be granted after the commencement of this Act to persons who shall have served in an established capacity in the permanent civil service of the State, whether their remuneration be computed by day pay, weekly wages, or annual salary, and for whom provision shall not otherwise have been made by Act of Parliament, or who may not be specially excepted by the authority of Parliament, shall be as follows (that is to say):

To any person who shall have served 10 years and upwards, and under 11 years, an annual allowance of ten-sixtieths of the annual salary and emoluments of his office:

For 11 years, and under 12 years, an annual allowance of eleven-sixtieths of such salary and emoluments:

And in like manner a further addition to the annual allowance of one-sixtieth in respect of each additional year of such service, until

might hereafter have been granted to any person who shall have entered the public service before the passing of this Act, but, except as aforesaid, the provisions hereinafter contained shall apply as well to persons who have already entered the public service, whether before or after the said 5th day of August, 1829, as to those who may hereafter enter the public service.

IV. It shall be lawful for the Commissioners of the Treasury from time to time, by any order or warrant, to declare that for the due and efficient discharge of the duties of any office or class of offices to be specified in such order or warrant, professional or other peculiar qualifications, not ordinarily to be acquired in the public service, are required, and that it is for the interest of the public that persons should be appointed thereto at an age exceeding that at which public service ordinarily begins; and by the same or any other order or warrant to direct that when any person now holding or who may hereafter be appointed to such office or any of such class of offices shall retire from the public service, a number of years not exceeding 20, to be specified in the said order or warrant, shall, in computing the amount of superannuation allowance which may be granted to him under the foregoing section of this Act, be added to the number of years during which he may have actually served, and also to direct that in respect of such office or class of offices the period of service required to entitle the holders to superannuation may be a period less than 10 years, to be specified in the order or warrant; and also to direct that, in respect of such office or class of offices, the holder may be entitled to superannuation, though he may not hold his appointment directly from the Crown, and may not have entered the service with a certificate from the Civil Service Commissioners: provided always, that every order or warrant made under this enactment shall be laid before Parliament.

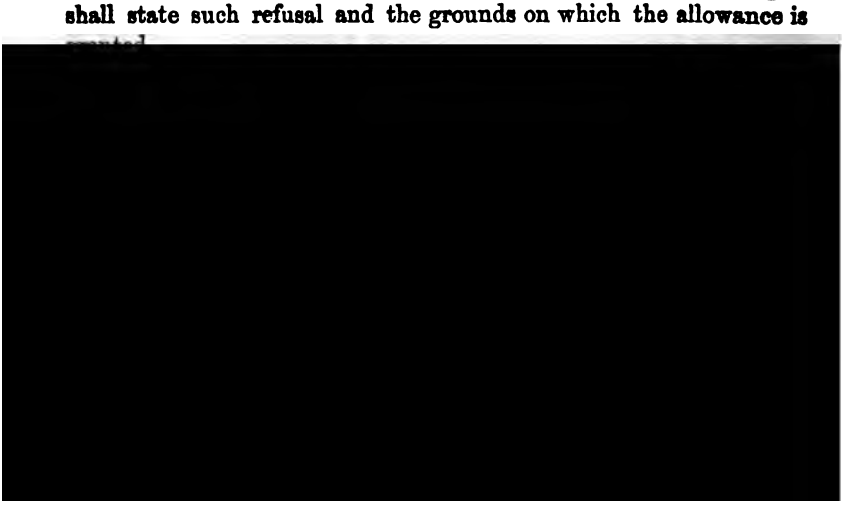
V. It shall be lawful for the Commissioners of the Treasury to grant to any person who, being the holder of an office in respect of which a superannuation allowance may be granted, but not having completed the period which would have entitled him to a superannuation allowance, is compelled to quit the public service by reason of severe bodily injury, occasioned, without his own default, in the discharge of his public duty, a gratuity not exceeding 3 months' pay for every two years of service, or a superannuation allowance not exceeding ten-sixtieths of the annual salary and emoluments of his office.

VI. It shall be lawful for the Commissioners of the Treasury to grant to any person who, being the holder of an office in respect of which a superannuation allowance may be granted, is constrained, from infirmity of mind or body, to leave the public service before the completion of the period which would entitle him to a superannua-

tion allowance, such sum of money by way of gratuity as the said Commissioners may think proper, but so as that no such gratuity shall exceed the amount of one month's pay for each year of service.

VII. It shall be lawful for the Commissioners of the Treasury to grant to any person retiring or removed from the public service in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organization of the department to which he belongs, by which greater efficiency and economy can be effected, such special annual allowance by way of compensation as on a full consideration of the circumstances of the case may seem to the said Commissioners to be a reasonable and just compensation for the loss of office; and if the compensation shall exceed the amount to which such person would have been entitled under the scale of superannuation provided by this Act if 10 years were added to the number of years which he may have actually served, such allowance shall be granted by special minute, stating the special grounds for granting such allowance, which minute shall be laid before Parliament, and no such allowance shall exceed two-thirds of the salary and emoluments of the office.

VIII. It shall not be lawful for the Commissioners of the Treasury to grant the full amount of superannuation allowance which can be granted under this Act to any person not being the head officer or one of the head officers of a department, unless upon production of a certificate (signed by the head officer of the department, or by two head officers, if there be more than one) that he has served with diligence and fidelity to the satisfaction of such head officer or officers; and in every case in which any superannuation allowance is granted, after the refusal of such certificate, the minute granting it shall state such refusal and the grounds on which the allowance is



X. It shall not be lawful to grant any superannuation allowance under the provisions of this Act to any person who shall be under 60 years, unless upon medical certificate to the satisfaction of the Commissioners of the Treasury that he is incapable, from infirmity of mind or body, to discharge the duties of his situation, and that such infirmity is likely to be permanent.

XI. Every person to whom a superannuation or compensation allowance shall have been granted before he shall have attained the age of 60 years shall, until he has attained that age, be liable to be called upon to fill, in any part of Her Majesty's dominions in which he shall before have served, any public office or situation under the Crown for which his previous public services may render him eligible; and if he shall decline, when called upon to do so, to take upon him such office or situation, or shall decline or neglect to execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the compensation or superannuation allowance which had been granted to him.

XII. And whereas it will be for the advantage of the public service that officers holding employments entitling them to superannuation allowances under this or other Acts shall be eligible for other public employments at home and abroad, without forfeiting their claims to such allowances:

Every officer already or hereafter to be transferred from employment entitling him to superannuation allowance to public employment under the Crown not so entitling him shall be entitled, on his ultimate retirement from the public service, to the same allowance as if he had continued to hold the vacated appointment and at the same rate of salary as when the same was vacated, subject nevertheless to the conditions which would in that case have been applicable with respect to the grant of such allowance: provided that it shall be lawful for the Commissioners of the Treasury, in the case of officers transferred to governorships and lieutenant-governorships of colonies, and other high offices abroad, conferred for a limited period, to grant such superannuation allowance to such officers on the expiration of such term of service without a renewal of public employment; but any officer to whom such grant is made while under the age of 60 years shall be subject to the same liability to be called upon to fill office under the Crown, as herein provided concerning other persons under that age to whom like allowances are granted.

XIII. All orders, warrants, and minutes by this Act directed to be laid before Parliament shall be laid before both Houses of Parliament within 14 days after the making thereof if Parliament be sitting, and if Parliament be not sitting then within 14 days after the next meeting thereof.

XIV. No pension shall be granted under the provisions of Sec. VI of the Act of the 57th year of King George III [cap. 65],* to any person who shall not have had a seat in one of the Houses of Parliament during the period or one-half of the period for which he has held office, as in the said section is mentioned.

XV. The several sections mentioned in the schedule hereto of the several Acts of Parliament, also therein mentioned, shall be construed as if this Act, instead of the said Act of the 4th and 5th years of the reign of King William IV, had been referred to in the said sections; and such other enactments as refer to the scale of superannuation allowance established by the provisions hereby repealed of the said Act of King William IV shall be construed as if the scale established by this Act had been referred to.

XVI. All superannuations, compensations, gratuities, and other allowances granted or hereafter under this Act to be granted shall be paid to the persons entitled to receive the same without any abatement or deduction in respect of any taxes or duties whatever at present existing, except the tax upon property or income.

XVII. For the purposes of this Act, no person hereafter to be appointed shall be deemed to have served in the permanent civil service of the State, unless such person holds his appointment directly from the Crown, or has been admitted into the civil service with a certificate from the Civil Service Commissioners; nor shall any person, already appointed to any office, be held to have served in the permanent civil service as aforesaid, unless such person belong to a class which is already entitled to superannuation allowance, or to a class in which, if he had been appointed thereto subsequently to the passing of this Act, he would, as holding his appointment directly from the Crown, or as having been admitted into the civil service with such certificate as aforesaid, have become



ACT of the British Parliament, "to extend in certain cases the Provisions of the Superannuation Act, 1859" [to Persons who may have served in the Office of the Secretary of State for India].

[23 & 24 Vict. cap. 89.] [*August* 13, 1860.]

WHEREAS it is expedient that provision should be made for the grant of superannuation allowances to persons who may have served both in the office of the Secretary of State for India, and likewise in the permanent civil service of the State, within the meaning of Sec. XVII of the Superannuation Act, 1859:* Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Whenever any person shall have been transferred from any situation or employment in the permanent civil service entitling him to superannuation allowance under the Superannuation Act, 1859, to any situation or employment in the office of the Secretary of State for India, entitling him to superannuation allowance under Sec. XVIII of the "Act for the better Government of India," 21 and 22 Victoria, cap. 106,† or whenever any person shall have been transferred from any such last-mentioned to any such first-mentioned situation or employment, such person shall be entitled to superannuation allowance calculated on his whole service according to the provisions of the Superannuation Act aforesaid, and such allowance shall be paid out of the revenues of India and out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, or out of moneys voted by Parliament, in such portions respectively as shall have been earned by such person in the respective services aforesaid.

ACT of the British Parliament, "to make Provision respecting the Marriages of British Subjects in the Ionian Islands."

[23 & 24 Vict. cap. 86.] [*August* 6, 1860.]

WHEREAS it is expedient to make provision respecting marriages which have been or may hereafter be contracted by subjects of Her Majesty in the Ionian Islands: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. All marriages between subjects of Her Majesty, or to which

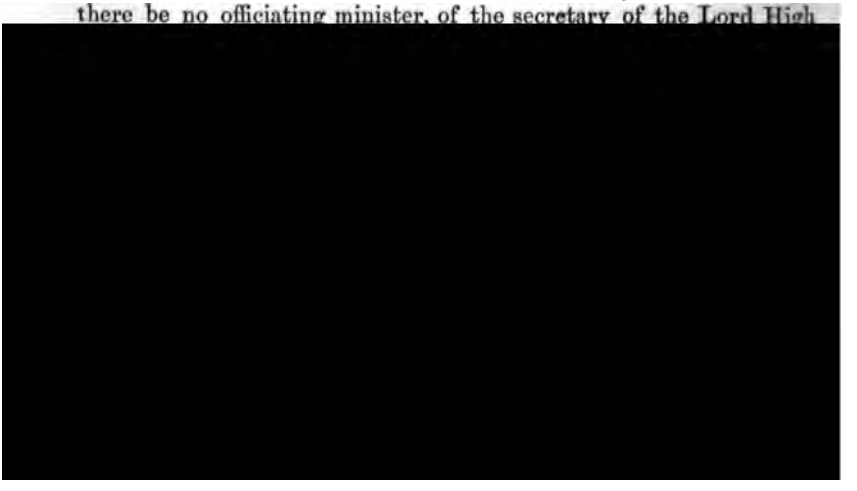
* Page 679. † Vol. XLIX. Page 742.

any such subject shall be party, contracted in the said islands before the passing of this Act, under authority of any warrant, licence, or other written permission of the Lord High Commissioner of the said islands, at whatever hour, in whatever place, or by whatever ceremony the same may have been solemnized, shall be deemed to be as valid in law, and cognizable in like manner, as if the same had been solemnized within Her Majesty's dominions with a due observance of all forms required by the law: provided always, that this enactment shall not extend to render valid any marriage which before the passing of this Act has been declared invalid by any court of competent jurisdiction, or any right dependent on the validity or invalidity thereof, or any marriage where either of the parties has afterwards during the life of the other lawfully intermarried with any other person.

II. All marriages between subjects of Her Majesty, or to which such subjects shall be party, which shall be contracted in the said islands after the passing of this Act, under authority of any licence granted by the said Lord High Commissioner, or by any officer authorized by him to grant such licences, shall be deemed to be valid and cognizable as aforesaid, provided the same shall have been solemnized in manner hereinafter mentioned, that is to say:

(1.) Every such marriage shall be solemnized, with open doors, in the place specified in such licence, being either some Christian place of worship or the Palace of the Lord High Commissioner at Corfu, or the residence of the resident of the Lord High Commissioner in any other of the said islands.

(2.) Every such marriage shall be solemnized between the hours and within the period specified in such licence, and in the presence of two or more witnesses, and of the officiating minister, or, if there be no officiating minister, of the secretary of the Lord High



"I call upon these persons here present to witness that I, A. B., do take thee, C. D., to be my lawful wedded wife [or husband]."

III. Immediately after the solemnization of any marriage under the provisions of this Act, a certificate of the same shall, in the presence of the two witnesses, be signed in triplicate by the parties thereto, and, as the case may be, by the said officiating minister, secretary, or resident; and one copy of such certificate shall be delivered to the parties to the marriage, and the other copies shall be transmitted to the Lord High Commissioner, and shall be registered in such manner as he shall appoint; and a copy of such registry, purporting to be certified under the hand and official seal of the said secretary, shall be received as evidence in the law of the marriage to which it relates, without its being necessary for any person signing such copy or registry to attend in person to prove the same.

IV. In the month of January in every year the said Lord High Commissioner, or any officer authorized by him, shall make and transmit to one of Her Majesty's Principal Secretaries of State, to be transmitted by him to the Registrar-General, a true copy, certified under the hand of the Lord High Commissioner or that of the officer authorized by him, of all the entries of marriages during the preceding year in the register-book kept by the said Lord High Commissioner; and if there shall have been no marriage registered during the preceding year, the Lord High Commissioner, or such authorized officer, shall transmit a certificate of such fact to Her Majesty's Secretary of State, to be transmitted by him to the Registrar-General.

V. The Registrar-General shall cause indexes of all the said certified copies of marriage registers to be made and kept in the General Register Office; and every person shall be entitled, on payment of the fees hereinafter mentioned, to search the said indexes between the hours of 10 in the morning and 4 in the afternoon of every day except Sundays, Christmas Day, and Good Friday, and to have a certified copy of any entry in the said certified copies of the registers; and for every search of the said indexes shall be paid the sum of 1*s.*, and for every such certified copy the sum of 2*s.* 6*d.*, and no more, shall be paid to the Registrar-General, or such other officer as shall be appointed for that purpose on his account, in addition to the stamp duty of 1*d.* imposed by an Act of the present session, cap. 15.

VI. The Registrar-General shall cause to be sealed or stamped, with the seal of the General Register Office, all such certified copies of marriage entries given in the said office; and all certified copies of entries purporting to be sealed or stamped with the seal of the said Register Office shall be received as evidence of the marriage

to which the same relates, without any further or other proof of such entry; and no certified copy, purporting to be given in the said office, shall be of any force or effect which is not sealed or stamped as aforesaid.

VII. The Lord High Commissioner may, by writing under his hand and seal, to be promulgated in such manner as he shall think fit, make regulations respecting the form of the licence and certificate hereinbefore mentioned, and respecting the conditions of issuing the said licence, and respecting the fees payable on the issuing of such licence, and on the solemnization of any marriage and respecting the disposal of such fees, and respecting the registration of such marriages according to the laws of the Ionian Islands, and respecting all other matters requisite for carrying into execution the provisions of this Act; provided that no marriage shall be deemed to be invalid in consequence of the infraction or non-observance of such regulations.

VIII. If any marriage shall be had under the provisions of this Act by means of any wilfully false notice, oath, affirmation, or declaration made by either party to such marriage as to any matter to which a notice, oath, affirmation, or declaration is required by this Act, or by any such regulations as aforesaid, it shall be lawful for Her Majesty's Attorney-General or Solicitor-General to sue for the forfeiture of all estate and interest in any property accruing to the offending party by such marriages, and the proceedings thereupon and the consequences thereof shall be the same as are provided by law in the like case with regard to marriages solemnized by licence in England according to the rites of the Church of England.

IX. Any person who, for the purpose of procuring, preventing, or delaying any marriage, shall knowingly and wilfully make or



invalid any marriage heretofore or hereafter solemnized within the said islands, which marriage was or shall be valid according to the laws of the said islands.

XII. The terms "Lord High Commissioner," "Resident of the Lord High Commissioner," and "Secretary of the Lord High Commissioner," shall include respectively any person lawfully acting in any of such capacities.

ACT of the British Parliament, "to amend an Act passed in the 6th Year of Her Majesty Queen Victoria, intituled 'An Act to enable Her Majesty to provide for the Government of her Settlements on the Coast of Africa and in the Falkland Islands.'"

[23 & 24 Vict. cap. 121.] [*August* 28, 1860.]

WHEREAS by an Act passed in the 6th year of Her Majesty Queen Victoria [cap. 13.],* intituled "An Act to enable Her Majesty to provide for the Government of her settlements on the Coast of Africa and in the Falkland Islands," provision was made for the Government of such settlements which were then or might thereafter be made by any of Her Majesty's subjects resorting to the said Coast or in the said Islands: And whereas divers of Her Majesty's subjects occupied or may hereafter occupy other places, being possessions of Her Majesty, but in which no Government has been established by authority of Her Majesty: and whereas it is necessary that provision should be made for the civil Government of such places, and for the administration of justice therein: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. The provisions of the said Act shall extend to all possessions of Her Majesty not having been acquired by cession or conquest, nor (except in virtue of this Act) being within the jurisdiction of the legislative authority of any of Her Majesty's possessions abroad.

II. It shall be lawful for Her Majesty by any Order or Orders in Council to authorize and require the Supreme or other principal Court of Judicature in any of her possessions to be specified in such Order (subject always to such conditions and limitations as in the said Order or Orders shall be mentioned) to take cognizance of all or any suits, actions, or prosecutions for treason or felony, which may arise in respect of any Act or matter occurring within any possession

* Vol. XXXI. Page 1211.

of Her Majesty to which this or the said hereinbefore recited Act shall extend, and by such Order or Orders to make regulations respecting the attendance of witnesses in any such suit, action, or prosecution, and the mode of enforcing such attendance, and respecting the custody and conveyance of any person charged with the commission of any such crime within such last-mentioned possessions, and respecting such other matters as may be requisite for the due trial of such person by such court as aforesaid, and every such Order shall be laid before both Houses of Parliament as soon as conveniently may be after the making thereof.

TREATY of Peace and Union between the Argentine Confederation and the Government of Buenos Ayres.—Signed at San José de Flores, November 10, 1859.

[Ratifications exchanged at San José de Flores, November 18, 1859.]

The Government of Buenos Ayres and his Excellency the President of the Argentine Confederation, Captain General of the National Army in campaign, having accepted the official mediation in favour of the internal peace of the Argentine Confederation, offered by the Government of Paraguay, worthily represented by his Excellency Brigadier-General Don Francisco Solano Lopez, Minister Secretary of State in the Department of War and Marine of said Republic, decided to put an end to the deplorable disunion in which the Argentine Republic has remained since 1852, and to resolve definitively the question which has kept the province of Buenos Ayres separated from the group which constituted and



Ayres, Señores Dr. Don Carlos Tejedor and Don Juan Bauptista Peña; and on the part of the President of the Argentine Confederation, Señores Brigadier General Don Tomas Guido, Minister Plenipotentiary of the Argentine Confederation to His Majesty the Emperor of Brazil and to the Oriental State, Brigadier General Don Juan Estevan Pedernera, Governor of the Province of San Luis, and Commandant-in-chief of the Southern Military Division; and Dr. Don Daniel Araoz, Deputy to the National Congress for the Province of Tujui; who, their full powers being respectively examined and found in order, agreed upon the following articles:

ART. I. Buenos Ayres declares herself an integral part of the Argentine Confederation, and will verify her incorporation by the acceptance and solemn swearing of the National Constitution.

II. Within 20 days from the ratification of the present contract a National Convention shall be convoked, which shall examine the Constitution sanctioned in May, 1853, obtaining in the other Argentine Provinces.

III. The members forming the Convention shall be freely elected by the people, with subjection to the laws actually in force in Buenos Ayres.

IV. If the Provincial Convention accept the Constitution sanctioned in May, 1853, and obtaining in the other Argentine Provinces, without finding anything to change in it, Buenos Ayres shall solemnly swear it on the day and in the manner pointed out by said Convention.

V. In case the Provincial Convention declares that reforms are necessary in said Constitution, those reforms shall be communicated to the National Government, in order that, presented to the National Federal Congress, a Convention *ad hoc* may be convoked to take them into consideration, to which Buenos Ayres shall send Deputies in proportion to her population, ratifying what the Convention thus composed may definitively decide, saving the integrity of the State of Buenos Ayres itself, which shall not be divided without the consent of its Legislature.

VI. Pending the arrival of said epoch Buenos Ayres shall not hold diplomatic relations of any class whatever.

VII. All the properties of the State conferred by its particular laws, such as its public establishments, of whatever class they may be, shall remain belonging to the province of Buenos Ayres, and shall be governed and ruled by the authorities of that Province.

VIII. The Custom-House is excepted from the previous Article, since, by the Federal Constitution, the customs belong to the nation; on account, however, of this branch forming the chief source of revenue of Buenos Ayres, the nation guarantees to the province of Buenos Ayres their estimates of the year 1859 for 5

years after its incorporation, to defray expenses, including the home and foreign debt.

IX The actual customs laws of the province of Buenos Ayres upon foreign commerce shall remain in force until the National Congress, revising the customs tariffs of the Confederation and of Buenos Ayres, shall establish one for the regulation of all foreign customs rates.

X. By the present compact a perpetual oblivion being thrown over all the causes which led to our unfortunate disunion, no Argentine citizen shall be molested in any way for any act committed or political opinions held during the temporary separation of the province of Buenos Ayres, nor shall their properties be confiscated for like causes, in conformity with the Constitution of both parties.

XI. After ratification of this arrangement the army of the Confederation shall vacate the territory of Buenos Ayres within 15 days, both parties reducing their armaments to a peace standing.

XII. The Presidential election having already taken place in the Confederate Provinces, Buenos Ayres shall immediately proceed to name electors who may verify the election of President by 1st January next, the electoral lists being sent in before the expiration of the term fixed for the general scrutiny, provided the Government of Buenos Ayres shall have accepted, without reserve, the National Constitution.

XIII. All the generals, chiefs, and officers of the army of Buenos Ayres, dismissed since the year 1852, and who may be at present in the service of the Confederation, shall be re-established in their former rank, and in the enjoyment of their salaries, being permitted to reside in that province or the Confederation as they may think fit.



TREATIES of Commerce, Cession, &c. between France and Kings and Chiefs of Western Africa.—1856–1859.

(1.)—*Traité d'Amitié et de Commerce, entre la France et le Roi de Malaguia.—Conclu à Mellacorée, le* 14 *Avril*, 1856.

Entre nous, Louis-Martial Laporterie, Lieutenant de vaisseau, Commandant l'aviso à vapeur *l'Euphrate* pour Sa Majesté Napoléon III et en vertu des pouvoirs qui nous ont été dévolus par le Commandant-en-chef de la division des côtes occidentales d'Afrique, d'une part, et Ausoumana Sanessi, Roi de Malaguia dans le Rio Mellacorée, d'autre part, il a été stipulé, dans le but d'arrêter d'une manière fixe et équitable les prérogatives du pouvoir local, de même que les garanties et la protection, les immunités et les droits qui seront à l'avenir accordés aux négociants, traitants, capitaines, marins et autres citoyens Français que leurs affaires ou autres nécessités urgentes appelleraient dans la rivière précitée :

Art. I. Tout Français résidant dans la rivière de Mellacorée est, par ce seul fait, placé sous la garantie et la protection du Roi, de même que ses propriétés. Les descendants du Roi actuel ou ses successeurs s'engagent, par la présente Convention, à faire respecter dans leurs personnes et leurs biens les citoyens Français qui s'établiront dans la rivière précitée.

II. Dans le cas où un vol, un préjudice quelconque aurait lieu à l'égard des sujets Français, soit à bord, soit à terre, le Roi s'engage, sur la plainte qui lui serait faite par les ayants-droit, à faire tout son possible pour que les objets soustraits soient rendus à leur propriétaire ; dans le cas où ces objets auraient été dissipés, le Roi prend en outre l'engagement d'en faire restituer la valeur aux intéressés. Le voleur sera puni par le Roi selon les lois du pays d'après la gravité du cas, et, s'il a été exercé des violences envers un ou plusieurs Français, le Conseil des traitants en informera l'Agent Consulaire de France le plus voisin, qui en rendra compte au Chef de la division navale des côtes occidentales d'Afrique, afin que le Roi de Malaguia soit mis en mesure par cette haute autorité d'octroyer telle punition ou telle satisfaction qu'exigeraient les circonstances.

III. Excepté dans le cas de flagrant délit de crime contre les personnes, le Roi de Malaguia s'abstiendra de gêner, de suspendre en quoi que ce soit la liberté des sujets Français ; s'il arrivait qu'il eût à se plaindre d'actes blâmables de la part de ceux-ci, il pourrait en référer au Conseil des traitants par la voie de son président, lequel Conseil agirait, s'il le jugeait convenable, pour arranger les choses à l'amiable. A défaut de ce moyen, le Roi aura toujours la faculté d'adresser directement ses plaintes aux commandants des bâtiments de guerre qui se trouveraient en rivière ou à l'Agent Con-

sulaire de France à Sierra Leone. Quel que soit celui des 3 moyens dont le Roi préférera user, ils donneront toujours lieu à l'exposé des faits au Commandant-en-chef de la station navale qui, en définitive, statuera sur la question en litige par ce principe qu'aucun sujet Français ne devra être jugé pour les faits perpétrés en rivière que par les lois ou autorités de son pays.

IV. Tout navire de commerce hauturier, d'un tonnage au-dessus de 100 tonneaux, entrant dans la Mellacorée, soit pour y déposer, soit pour y prendre un chargement de produits, payera au Roi de Malaguia un droit fixe d'ancrage de 10 gourdes en argent. Toutefois les goëlettes, côtres ou autres bâtiments expédiés de nos possessions coloniales pour faire le cabotage sur la côte occidentale d'Afrique, ne seront soumis à aucun droit quelconque de ce genre, ni à nul autre. Tous les navires entrant en relâche dans la rivière, excepté dans les cas de force majeure, payeront un droit d'ancrage de 10 gourdes, qui leur conférera la faculté pleine et entière de s'approvisionner d'eau et de bois de chauffage sans qu'il puisse être exigé d'eux aucune redevance pour jouir de ce double avantage. Cependant il reste toujours entendu qu'en aucun cas les navires caboteurs ne sauraient être frappés d'aucun droit d'ancrage en pareil cas.

V. S'il arrivait qu'un capitaine marin refusât d'acquitter les droits d'ancrage spécifiés à la présente Convention, le Roi de Malaguia n'aurait qu'à informer tout capitaine de bâtiment de guerre Français à portée, ou, à défaut, l'Agent Consulaire de France à Sierra Leone, pour que le Commandant-en-chef de la station saisisse le Gouvernement de la question et qu'il soit fait justice d'un pareil mépris des Traités consentis par les deux pouvoirs Contractants.

VI. En cas de naufrage d'un navire Français dans la rivière, le Roi s'engage, dès qu'il en sera informé, à envoyer sous la conduite

des débris du navire et de la cargaison. Le Roi fournira au besoin un logement et une nourriture suffisante aux naufragés ; les allocations qui lui seront payées à cet égard seront fixées de gré à gré avec le capitaine, ou, en cas de dissidence, par voie arbitrale constituée à l'aide des traitants Français présents sur les lieux. Si le capitaine ne peut directement acquitter les sommes dues ainsi, recours aura lieu à l'Agent Consulaire à Sierra Leone pour le solde.

VIII. L'impossibilité pour le Roi de Malaguia ayant été constatée au sujet d'un balisage permanent des passes dangereuses de la rivière, les capitaines pourvoiront comme ils l'entendront à la sécurité de leur navigation. S'il arrivait qu'ils prissent des pilotes à Cakoutlaï pour remonter la rivière, une embarcation des bâtiments irait les prendre à cette pointe ; ces pilotes devront remonter et descendre les navires jusqu'au lieu de leur chargement et jusqu'à celui où ils les auront pris, sans qu'ils puissent exiger pour ce double mouvement plus de 5 shelings par pied Français de tirant d'eau. En aucun cas, cette allocation de pilotage ne saurait être exigible si les capitaines ne se sont point servi de pilotes.

IX. De même que le Roi de Malaguia s'engage par la présente Convention à faire respecter la vie, la liberté et la fortune des citoyens Français, à leur accorder en tout temps l'énergique sauvegarde de son autorité, de même le Gouvernement Français accueillera avec faveur toute réclamation fondée en droit qui lui serait adressée contre ses nationaux, et il y serait fait justice par les autorités Françaises compétentes.

X. Sont et demeurent abrogés tous les Traités antérieurs avec les Rois de Malaguia.

XI. La présente Convention sera soumise à la ratification du Gouvernement de Sa Majesté l'Empereur ; elle deviendra exécutoire pour les deux Parties Contractantes dès que l'avis de sa ratification aura été notifié par l'intermédiaire de l'Agent Consulaire de France à Sierra Leone ou par toute autre voie qu'il plaira au Gouvernement d'employer à cet égard.

Fait à Mellacorée, le 14 Avril, 1856, en présence de MM. les traitants réunis et de M. Autran, commis d'administration de *l'Euphrate*, de M. Laporterie, Commandant *l'Euphrate*, représentant par délégation du Commandant-en-chef de la station navale des côtes occidentales d'Afrique, Sa Majesté Napoléon III d'une part, et d'autre part Ausoumana Sanessi, Roi de Malaguia, assisté de son Ministre et des hommes considérables de la ville, et ont signé :

L. M. LAPORTERIE.
H. L. AUTRAN.
AUSOUMANA SANESSI.

(2)—*Convention entre la France et le Roi de Douaïch.—Conclue à Bakel, le* 1*er Novembre*, 1857.

CONSIDERANT qu'il est très-juste que les Cheiks des nations Maures Douaïch, Brakna, Trarza tirent un revenu du commerce de la gomme, produit des forêts de leur pays, récolté et apporté à nos comptoirs par leurs sujets;

Le Gouvernement Français consentirait à ce que ces chefs fissent percevoir, à leur profit, dans nos postes du fleuve, un droit d'environ 3 pour cent sur la valeur des gommes apportées de la rive droite, ce qui ferait, en traduisant en pièces de Guinée, suivant l'usage du pays:

à St. Louis, Dagana et Podor	1 pièce de guinée	marchande	pour 500	kil. de gomme.
à Matam	id.	id.	700	do.
à Bakel	id.	id.	800	do.
à Médine	id.	id.	900	do.

A cet effet, les chefs des 3 nations Maures auraient des agents dans ceux de nos comptoirs qui sont situés à hauteur de leurs territoires respectifs, savoir: le Cheikh des Douaïch à Bakel et à Matam; le Cheikh des Brakna à Podor; le Cheikh des Trarza à Dagana et à Saint-Louis.

Pour plus de commodité dans la perception, les commerçants Français qui achètent les gommes payeraient eux-mêmes le droit de sortie dont serait grevé ce produit au profit des Cheikhs, après en avoir tenu compte dans le prix qu'ils donneraient aux Maures.

Le commandant du comptoir, d'accord avec les agents des chefs Maures, s'assurerait des quantités de gommes traitées et percevrait le droit proportionnel qui serait livré aux chefs Maures, par l'entremise de leurs agents, aux époques et suivant le mode convenu avec chacun d'eux. Les chefs Maures auraient intérêt à empêcher leurs

leurs sujets, quand même les traitants prétendraient les avoir payées.

Fait à Bakel, 1er Novembre, 1857.

L. FAIDHERBE.
BAKAR.

(3.)—*Traité de Paix entre la France et le Roi des Trarza.—Conclu à Saint Louis, le 20 Mai*, 1858.

Gloire à Dieu, Maître des mondes, Créateur de tout ce qui existe dans les cieux et sur la terre!

Au nom de Sa Majesté Napoléon III, Empereur des Français, L. Faidherbe, Lieutenant-Colonel du Génie, Officier de la Légion d'Honneur, Gouverneur du Sénégal et dépendances, d'une part; et Mohammed-el-Habib, Roi des Trarza, d'autre part;

Pour mettre fin à la guerre qui dure depuis 3 ans entre les Français et les Trarza, ont conclu le Traité de paix suivant:

Art. I. Le Roi des Trarza reconnaît en son nom et au nom de ses successeurs que les territoires du Oualo, de Gaé, de Bakol, du Toubé, de Dialakhar, de Gandiole, de Thionq, de Djiaos et de Ndiago appartiennent à la France et que tous ceux qui les habitent ou les habiteront plus tard sont soumis au Gouvernement Français, et par suite ne peuvent être astreints à aucune espèce de redevance ni de dépendance quelconque envers d'autres chefs que ceux que leur donnera le Gouverneur du Sénégal.

II. Le Roi des Trarza reconnaît en son nom et au nom de ses successeurs que le Gouverneur du Sénégal est le protecteur des Etats Ouolof du Dimar, du Djiolof, du Ndiambour et du Cayor. Comme quelques-uns de ces Etats sont tributaires des Trarza, c'est par l'intermédiaire du Gouverneur que les tributs seront perçus et livrés au Roi des Trarza; et c'est par lui que seront levées les difficultés qui pourraient s'élever entre le Roi des Trarza et ces Etats. En conséquence, aucun Maure armé ne traversera le fleuve pour aller dans ces pays, sans le consentement préalable du Gouverneur.

III. Le Roi des Trarza s'engage en son nom et au nom de ses successeurs, à exercer la plus grande surveillance pour empêcher les courses et pillages de quelques-unes de ses tribus sur la rive gauche du fleuve. Le Gouverneur du Sénégal s'engage à aider de tout son pouvoir le Roi des Trarza dans ce but et à soutenir son autorité contre ceux de ses sujets qui voudraient, malgré lui, revenir à leurs anciennes habitudes.

IV. Les relations commerciales seront immédiatement rétablies entre les Français et les Trarza. Les Français ne veulent, pour le moment, acheter la gomme que dans leurs établissements de Saint-Louis, Dagana, Podor, Saldé, Matam, Bakel et Médine, et veulent l'acheter toute l'année. Le Roi des Trarza ne veut, pour le moment,

laisser venir les gommes des Trarza qu'à Dagana: il en est le maître. Le Roi des Trarza et le Gouverneur prendront, chacun de leur côté et dans la limite de leurs droits, les mesures nécessaires pour faire exécuter leur volonté par leurs sujets et administrés respectifs.

Le commerce de tous les autres produits du pays des Trarza se fera librement et partout, soit à terre, soit à bord des embarcations.

V. Comme le commerce d'un pays doit rapporter des revenus au Gouvernement de ce pays, il est juste que le Roi des Trarza tire un profit du commerce des gommes. La perception de cet impôt sur le commerce de ses sujets offrant pour lui des difficultés de plus d'un genre, le Gouvernement Français, comme preuve de bienveillance envers son allié, veut bien se charger de cette perception. En conséquence, les commerçants qui achèteront la gomme des Trarza à Dagana, ou peut-être plus tard sur d'autres points, sauront que ce produit est grevé à sa sortie du pays des Trarza, d'un droit d'une pièce de guinée par 500 kilogrammes de gomme, soit environ 3 pour cent au profit du Roi des Trarza et qu'ils auront à verser ce droit entre les mains du Commandant ou de telle autre personne désignée, qui le livrera au Roi des Trarza quand celui-ci le désirera.

La pièce de guinée par 1,000 livres de gomme, sera également perçue à Saint-Louis, au profit du Roi des Trarza, quand les caravanes Trarza en apporteront sur ce point avec son autorisation.

VI. Le Roi des Trarza s'engage à protéger, par tous les moyens en son pouvoir, le commerce des gommes et autres produits contre tous ceux qui voudraient l'empêcher ou le gêner, et à ne jamais intervenir entre les vendeurs et les acheteurs, pas plus que le Gouverneur ne le fait: si l'on apprenait que, moyennant payement ou gratuitement, il influençât ses sujets pour leur faire vendre de préférence à tel ou tel particulier, on cesserait aussitôt la perception du droit d'une pièce.

les autres, à Dagana et rapporteront le même droit de sortie que les autres au Roi des Trarza, à moins que celui-ci ne les laisse venir à Saint-Louis, auquel cas le Gouverneur consentirait à percevoir la pièce pour 1,000 livres au profit de Chems, chef de cette tribu.

X. Le présent Traité servira seul, à l'avenir, de base aux relations politiques et commerciales des Français avec les Trarza. Tous les Traités et Conventions antérieurs sont annulés de plein droit et du consentement des Parties Contractantes.

Fait et signé en triple expédition, à Saint-Louis, le 20 Mai, 1858.

L. FAIDHERBE.

Celui qui ces présentes lira, saura que Mohammed-el-Habib donne son assentiment à ce Traité de paix entre lui et les Français, Traité qui lui a été apporté par Khiaroum, de la part de son père Mokhtar-Sidi, le dimanche 10e jour du mois de Chaoual de l'année 1274 de l'hégire.

MOHAMMED-EL-HABIB.

(4.)—*Traité de Paix et de Commerce entre la France et les Brakna. Conclu à Podor, le* 10 *Juin*, 1858.

Au nom de Dieu clément et miséricordieux.

Sous le règne de Sa Majesté Napoléon III, Empereur des Français, L. Faidherbe, Lieutenant-Colonel du Génie, Officier de la Légion d'Honneur, Gouverneur du Sénégal et dépendances, a conclu le Traité de Paix suivant avec les Brackna pour établir sur des bases nouvelles les relations politiques et commerciales entre eux et les Français.

Art. I. Le Roi des Brakna s'engage en son nom et au nom de ses successeurs à exercer la plus grande surveillance pour empêcher les courses et pillages de ses tribus sur la rive gauche du fleuve au dessous de Mokhtar-Salam, dans le Dimar et dans le Djiolof dont il reconnaît le Gouverneur du Sénégal pour protecteur.

II. Les relations commerciales seront partout rétablies entre les Brackna et les Français; les Français ne veulent pour le moment acheter les gommes que dans leurs établissements de Saint-Louis, Dagana, Podor, Saldé, Matam, Bakel et Médine, et veulent l'acheter toute l'année. Les Brakna porteront leurs gommes à Podor et à Saldé. Le Roi des Brakna et le Gouverneur prendront, chacun de leur côté et dans la limite de leurs droits, les mesures nécessaires pour faire exécuter leur volonté par leurs sujets et administrés respectifs. Le commerce de tous les autres produits du pays des Brakna se fera librement et partout, soit à terre, soit à bord des embarcations, autant que le permettra l'état de nos relations avec le Fouta.

III. Comme le commerce d'un pays doit rapporter des revenus au Gouvernement de ce pays, il est juste que le Roi des Brakna

tire un profit du commerce des gommes. La perception de cet impôt sur le commerce de ses sujets offrant pour lui des difficultés de plus d'un genre, le Gouvernement Français, comme preuve de bienveillance envers son allié, veut bien se charger de cette perception. En conséquence les commerçants qui achèteront la gomme des Brakna, à Podor ou à Saldé, ou peut-être plus tard sur d'autres points, sauront que ce produit est grevé, à sa sortie du pays des Brakna, d'un droit d'une pièce de guinée pour 500 kilogrammes de gomme traitée à Podor et d'une pièce de guinée pour 600 kilogrammes de gomme traitée à Saldé (c'est-à-dire environ 3 pour cent).

IV. Le Roi des Brakna s'engage à protéger, par tous les moyens en son pouvoir, le commerce des gommes et autres produits contre tous ceux qui voudraient l'empêcher ou le gêner, et à ne jamais intervenir entre les vendeurs et les acheteurs pas plus que le Gouverneur ne le fait. Si l'on apprenait que, moyennant payement ou gratuitement, il influençât ses sujets pour leur faire vendre de préférence à tel ou tel particulier, on cesserait aussitôt la perception d'un droit d'une pièce.

V. Les Français auront le droit de couper du bois partout sur le territoire des Brakna sans payer aucune redevance.

VI. Le présent Traité servira seul à l'avenir de base aux relations politiques et commerciales des Français avec les Brakna. Tous les Traités et Conventions antérieurs seront annulés de plein droit et du consentement des deux Parties Contractantes.

Fait en triple expédition à Podor, le 10 Juin, 1858.

L. FAIDHERBE.
MOHAMMED-SIDI.

(5.)—*Traité de Paix et de Commerce entre la France et le Chef du Dimar.—Conclu à Saint Louis, le* 18 *Juin,* 1858.



responsable du dommage causé et promet de livrer les coupables à la justice des Français.

III. Le commerce continuera à se faire dans le Dimar par les sujets Français, tant à terre que sur les navires, sans qu'il soit exigé des traitants ou commerçants aucun tribut, coutume ou cadeau, de quelque nature et sous quelque forme que ce soit. De leur côté les gens du Dimar pourront circuler librement avec leurs produits dans tous les pays Français sans qu'il leur soit réclamé aucun droit ou tribut.

IV. Eliman-Abdoul-Boly s'engage à protéger les sujets Français et leurs biens dans son pays comme ses sujets et leurs biens sont protégés dans les pays Français. Il promet de rendre bonne et prompte justice pour tout délit qui serait commis par un des habitants de son pays au détriment d'un sujet Français.

V. Les Français pourront couper du bois et faire paître du bétail sur le territoire du Dimar. De leur côté les sujets d'Eliman-Abdoul-Boly jouiront des mêmes avantages dans les pays soumis à la France.

VI. Sont abrogées toutes les dispositions antérieures au présent Traité qui servira seul à l'avenir de base aux relations politiques et commerciales entre l'Etat indépendant du Dimar et les Français.

Fait et signé en triple expédition, à Saint-Louis, le 18 Juin, 1858.

L. FAIDHERBE.
ABDOUL-BOLY.

Celui qui ces présentes lira saura qu'Eliman-Abdoul-Boly accepte tout ce qui est stipulé dans le présent Traité. Eliman Fanaye, et Eliman Tiangaye donnent aussi leur assentiment aux conditions ci-dessus, et tous s'engagent, en leur nom et au nom de leurs sujets à ne jamais rien faire de contraire à ce Traité.

ABDOUL-BOLY.

N.B. Abdoul-Boly ayant été assassiné par son neveu, son frère Eliman Dialo fut nommé à sa place, et la province du Dimar fut annexée à la colonie du Sénégal en 1860.

(6.)—*Traité avec le Chef de Farabana et du Niagala, traitant au nom de tous les Chefs de Bambouk.—Conclu à Saint-Louis, le* 18 *Août*, 1858.

ART. I. Les Français pourront s'établir partout où ils voudront dans le Bambouk, à l'exclusion de toute autre nation.

II. Les Français seront maîtres et indépendants dans leurs établissements, mais ils laisseront le Gouvernement du pays à ses chefs naturels.

III. Les Français accorderont protection sous leurs forts aux populations du pays contre leurs ennemis extérieurs.

IV. Ils exploiteront les mines d'or, concurremment avec les indigènes, cultiveront les terres, éléveront des troupeaux, bâtiront des habitations, sans rien payer à personne.

A Saint-Louis, le 18 Août, 1858.

L. FAIDHERBE.

Comme témoins : BOUGOUL.

A. MARITZ.

BONNET.

(7.)—*Traité avec l'Almamy de Bondou.—Conclu à Sénoudébou, le* 18 *Août*, 1858.

AU nom de Sa Majesté Napoleon III, Empereur des Français ;

L. Faidherbe, Gouverneur du Sénégal et dépendances, &c., a conclu le Traité suivant avec Boubakar-Saada, Almamy du Bondou :

ART. I. En reconnaissance des services qui lui ont été rendus, l'Almamy du Bondou, Boubakar-Saada, reconnaît en son nom et au nom de ses successeurs que, outre le cours de la Falémé, les territoires suivants appartiennent à la France en toute propriété :

1° Le territoire de Sénoudébou dont Boubakar évacuera la partie qu'il occupe dès que les circonstances le lui permettront ;

2° Une route de 20 mètres de largeur de Sénoudébou à Bakel ;

3° Le territoire du village de N'dangan ;

4° Une route de 20 mètres de largeur de N'dangan à Kéniéba ;

5° Une route de 20 mètres de largeur conduisant directement de Sénoudébou (rive droite) à Kéniéba ;

Le tracé de ces routes est au choix du Gouvernement Français.

II. L'Almamy ne percevra aucun droit sur les caravanes qui viennent de l'est directement à Sénoudébou.



(8.)—*Traité de Paix avec le Tonka du Guoy.—Conclu à Bakel, le* 19 *Août*, 1858.

Au nom de Sa Majesté Napoléon III, Empereur des Français.

Le Traité de Paix suivant a été conclu entre le Lieutenant-Colonel du Génie Faidherbe, Officier de la Légion d'Honneur, Gouverneur du Sénégal et dépendances et le Tonka du Guoy, Boubakar-Soulé :

Le Tonka (Roi) du Guoy, reconnaissant qu'en dehors de l'alliance Française, il n'y a pour lui et les siens que ruine et misère, demande la paix au Gouverneur du Sénégal.

Il cède à la France, en toute propriété et sans aucune condition, tout le territoire compris entre Bakel inclusivement et la Falémé.

Le Gouverneur le reconnait comme Roi de la partie du Guoy comprise entre Bakel exclusivement et le Fouta et lui accorde sa protection.

Fait et signé à Bakel, le 19 Août, 1858.

L. FAIDHERBE.

Comme témoins : NAMADOU, *fils du* TONKA.

CORNU

BONNET.

(9.)—*Traité de Paix et d'Amitié avec le Chef du Toro.*—Conclu à Guédé, le* 10 *Avril*, 1859.

Au nom de Sa Majesté Napoléon III, Empereur des Français.

Entre M. L. Faidherbe, Gouverneur du Sénégal, &c., représenté par M. L. Flize, Capitaine à l'Etat-Major de l'Infanterie de Marine, Directeur des Affaires indigènes et Amady-Boukar, Chef du Toro, a été conclu le Traité suivant :

ART. I. Le Toro reconnaissant que sa réunion politique avec le Fouta lui a toujours été plus nuisible qu'utile et voulant s'assurer, pour l'avenir, la protection des Français et une paix durable avec eux, déclare former à l'avenir un Etat indépendant qui s'étend sur le fleuve depuis Mao jusqu'à Alébé et sur le Marigot depuis Dado jusqu'à Aéré.

II. Cet Etat a pour Chef actuel Lam-Toro Amady-Boukar, élu le 10 Avril, 1859, à Guédé. Ce Chef les représentera dans leurs rapports avec les étrangers et assurera l'exécution des lois à l'intérieur.

III. Le Gouverneur reconnait l'indépendance de ce nouvel Etat et son Chef Electif. Il lui promet aide et protection contre les ennemis que pourrait lui susciter le présent Traité et en particulier, dans le cas où les villages qui forment la limite du Toro du côté du Fouta auraient à souffrir des dommages de la part des habitants de

* Le Toro a été annexé au Sénégal en 1860.

ce dernier pays, le Gouverneur promet de faire construire une tour à l'endroit le plus convenable pour assurer une protection efficace au Toro.

IV. Le Chef du Toro, Amady-Boukar, s'engage, en son nom et au nom de ses successeurs, à faire respecter les territoires Français ou alliés des Français, limitrophes du Toro et empêcher qu'il y soit commis des pillages par ses sujets. A cette condition, le Gouverneur promet sa médiation et son appui pour le cas où des pillages seraient commis par des étrangers Maures ou noirs contre les gens du Toro.

V. En cas de guerre entre les Français et les Maures, ou tout autre Etat voisin ou éloigné du Toro, Amady-Boukar s'engage à ne pas donner asile dans ses villages aux ennemis des Français.

VI. Les relations commerciales continueront comme par le passé, entre les sujets Français et ceux du Toro, sans que ceux-ci ou leurs Chefs aient à exiger des Français qui iront faire du commerce dans leur pays, aucune espèce de coutume, impôt, droit de passage ou cadeau de quelque nature et si minime qu'il soit; de leur côté, les gens du Toro pourront venir librement commercer dans tous les pays ou établissements Français, sans qu'il leur soit demandé aucune redevance.

VII. Amady-Boukar s'engage à respecter et à faire respecter dans son pays les sujets Français et leurs biens, de même qu'eux et leurs propriétés seront respectés chez les Français. En cas de contestation entre un sujet de la France et un habitant du Toro, il en sera référé au Gouverneur.

VIII. Les Français auront le droit de couper du bois, sans rien payer, sur les rives du fleuve et du bras de l'île à Morfil dans toute l'étendue du Toro.

IX. Le présent Traité servira seul de base, à l'avenir, aux rela-

[redacted]

Entre M. L. Faidherbe, Gouverneur du Sénégal, d'une part, et l'Almamy du Fouta, en son nom et au nom de ses successeurs, d'autre part, a été conclu le Traité suivant.

ART. I. Les Français déclarent l'Almamy du Fouta Chef responsable envers eux du pays du Fouta proprement dit ou Fouta central, s'étendant dans l'Est jusqu'à Gacel inclusivement et dans l'ouest jusqu'à Boki inclusivement dans le principal bras du fleuve et jusqu'à Kaël inclusivement dans le bras de l'île à Morfil. Ils reconnaîtront les Almamy régulièrement élus suivant l'usage du pays.

II. Le désir des deux Parties Contractantes est de vivre en paix l'une avec l'autre afin que l'agriculture, l'élève des troupeaux et le commerce puissent prendre un grand développement dans leur intérêt réciproque.

III. Les relations commerciales se feront sur le pied de la plus parfaite égalité entre les sujets Français et les gens du Fouta, sur tout le parcours du fleuve et des marigots, c.-à-d. qu'on ne fera payer nulle part aux traitants aucune espèce de coutumes, impôt, droit de passage ou cadeau quelconque de quelque nature et si minime qu'il soit, de même que de leur côté les gens du Fouta pourront naviguer et pêcher librement dans le fleuve et venir commercer dans tous les pays ou établissements Français, sans qu'il leur soit demandé aucune redevance.

IV. L'Almamy fera respecter dans son pays les sujets Français et leurs biens, de même que ses propres sujets et leurs biens seront respectés chez les Français. En cas de contestation entre un sujet de la France et un habitant du Fouta, les deux Gouvernements s'entendront pour juger l'affaire.

V. Les Français accorderont protection sous leurs forts à leurs alliés du Fouta et feront leur possible pour mettre un terme aux pillages des Maures sur la rive gauche.

VI. Les Français auront le droit de couper du bois et de l'herbe sans rien payer sur les rives du fleuve et du bras de l'île à Morfil dans toute l'étendue du Fouta.

VII. Tous les Traités antérieurs faits avec le Fouta sont abrogés.

Fait à Saint Louis, le 15 Août, 1859.

Moi Moustapha, Almamy actuel du Fouta, j'ai compris ce qui est écrit dans ce Traité et l'ai accepté en mon nom et au nom de ceux qui me succéderont comme Chefs du Fouta.

L. FAIDHERBE.
MOUSTAPHA.

N. B. Moustapha ayant été remplacé par Mohamadou, ce dernier a fait connaître son adhésion au Traité ci-dessus, en ces termes

De la part de l'Emir el Moumenin Mahomadou au Gouverneur, salut:

Cette lettre a pour but de vous informer que j'accepte moi-même ce qu'ont accepté le Fouta, le Toro et le Damga, qu'il m'en advienne du bien ou du mal, que j'en sois amoindri ou agrandi.

*CORRESPONDENCE between Great Britain, France, and The United States, relative to the Right of Visit.**—1858, 1859.

No. 1.—*Lord Napier to the Earl of Malmesbury.*—(*Rec. May* 10.)
(Extract.) *Washington, April* 19, 1858.

I HAVE the honour to transmit to your Lordship herewith a note addressed to Her Majesty's Legation by the Secretary of State in reply to various communications which I have made to the Government of The United States, under the instructions of the Earl of Clarendon, respecting the fraudulent adoption of the American flag in the prosecution of the African Slave Trade.

The Government of The United States will maintain a squadron of the force prescribed by Treaty.

Your Lordship will observe that General Cass recommends restrictive measures on the coast of Cuba, the only remaining market to which the Slave Trade is directed. He also refers with commendation to that Article in the Treaty of 1842, by which the Contracting Parties engage to use their remonstrances with the Governments which do not prevent the exercise of the forbidden traffic in their dominions.

In consequence of these observations, I have expressed to General Cass my hope that he would enable me to state to your Lordship that The United States' Government would despatch a naval force to the coast of Cuba; for I apprehended that the slavers, in approaching that island, would almost invariably hoist the flag of The United States, and thus elude the inspection of Her Majesty's cruizers. He had indicated the spot at which the remedy could be effectually applied; would he assist in applying it? I added that Her Majesty's Government had already anticipated the views of the American Cabinet, and had sent three or four gunboats or light steamers to the Cuban waters.

General Cass replied that he could not promise to send any vessel to act against the slavers on the coast of Cuba; and on my pressing the inconsistency of his position, he answered that this was not only a question of what was right, but of what was possible. Here I must grant that the Secretary of State did not speak with-

* Laid before Parliament, 1859.

out valid cause. The American navy is ill supplied with light vessels, and it may be doubted whether Congress would sanction any pecuniary appropriation for the purpose indicated.

Recalling the Article of the Ashburton Treaty alluded to above, I inquired whether General Cass would state to me officially that the Government of The United States had ever remonstrated with that of Spain in respect to the importation of enslaved negroes in the island of Cuba; and moreover, whether he would officially engage to do so at the present time.

General Cass replied that he presumed such remonstrances might have been offered. He did not know for certain that they had been so, nor could he at that moment promise to make the desired representations to the Cabinet of Madrid. He did not see, however, any objection to such a step, and it was certainly prescribed by the terms of the Treaty.

The Earl of Malmesbury. NAPIER.

(*Inclosure* 1.)—*General Cass to Lord Napier.*

MY LORD, *Washington, April* 10, 1858.

YOUR several letters respecting the African Slave Trade have been received at this department, but I have been prevented from answering them at an earlier day by the pressure of other duties, and by the difficulty of procuring information, not easily attainable, but necessary for their proper consideration. They have been submitted to the President, and I am instructed to communicate to your Lordship his views on the subjects they present for the determination of this Government.

While I concur with your Lordship in the opinion that the efforts of your Government have been unceasing for the extinction of this traffic, still I must be permitted to say, that its hope of the "hearty co-operation of the naval forces of The United States" might safely have been entertained, without appealing to the example of Great Britain. The officers of the Navy of The United States need no encomium from me, nor shall I pronounce one upon them. But I assure your Lordship, that when assigned to the irksome task of watching a long, desolate, and unhealthy coast, they will perform their duty, honourably and efficiently, without needing any other motive of action but that which a sense of duty inspires. Such devotion to the service is a part of their character and of the history of their country.

The United States have not been less anxious than Great Britain, for the extermination of this commerce in enslaved Africans, and they have given the most substantial proofs of this disposition, by acts both of legislation and of administration. If the American Government was not the first, it was among the first, to prohibit by

legal enactments, and to prevent by severe punishment, the longer continuation of this traffic, which had become repugnant to the opinion and feelings of the age. Lord Brougham, in a debate in the British House of Lords, when this subject was referred to, honourably and truly remarked, that "it should be borne in mind that The United States, at the very earliest period they were enabled to do so by the Federal Union, had adopted the abolition of the Slave Trade, and were, in fact, the first to make it piracy for any one of its subjects to carry it on."

But the best method of effecting the object, is a practicable problem of very difficult solution. The obstacles in its way were at first overlooked in the sanguine anticipations which were indulged of immediate success. Experience has come to test the measures proposed, and they have been found inadequate to the extinction of the evil. So much so that, in the opinion of your Government, its "present activity" demands increased exertions on the part of The United States, with a view to accomplish the object. Those exertions, it is suggested, should be directed to the coast of Africa, in order to render the blockade more effectual, and especially to examine and deal with vessels bearing the American flag and suspected of being engaged in this trade.

This system of a joint blockade has been pursued for some years, and the benefit it has produced bears no reasonable proportion, I regret to say, to the expenditure of life and treasure it has cost; but this failure need not discourage the anxious hopes of Christendom.

There is another method of proceeding, without the dangers, and difficulties, and inefficiency which beset a blockade, and which is sure to succeed if adopted and persevered in, and that is, to close the slave-marts of the world, or rather of the island of Cuba,



state that, on the application of The United States, it has lent its aid towards procuring evidence necessary for the conviction of persons, prosecuted in this country for the offence of slave-trading. The conventional arrangements which exist between Great Britain and France and Spain for their mutual co-operation in the suppression of the Slave Trade, are very imperfectly known to me; but it is understood that Spain has entered into engagements with Great Britain, if not with France also, that she will use her best exertions to prevent the importation of slaves into her dominions. This pledge, if given, has certainly not been redeemed, though it is difficult to believe that the Spanish Government would resist or neglect the firm remonstrances of these two great Powers, or even Great Britain alone, if she alone has the right, by Treaty stipulations, to demand of Spain the faithful performance of duties which she has voluntarily assumed. Upon the course of the Spanish Government far more depends than upon the most rigorous blockade of the African coast.

The United States have no suggestions to make respecting the most expedient measures to adopt in Africa, with a view to aid the operations of the squadrons employed by our respective Governments, or, instead of them, should the conviction of their inadequacy to effect the desired object induce the discontinuance of their services. But other means have been suggested by persons intimately acquainted with the slave coast, and who have watched the Slave Trade operations, and which offer encouraging prospects of success, if adopted. These suggestions relate to the extension and improvement of the free colonial establishments in that region, so as to create barriers at the most exposed points, and also to the construction of small military posts or blockhouses, garrisoned from the acclimated population, at or near the places to which the course of the trade has been directed, and where the means of interchange are to be found.

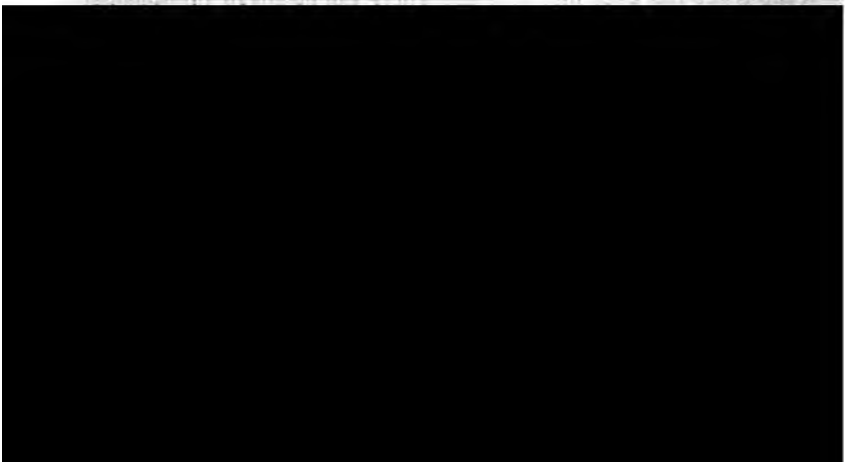
The negotiators of the Ashburton Treaty seem to have been among the few who doubted the efficacy of a blockade for the suppression of this Trade. Their provisions, as shown by Article IX of the Treaty, have been strikingly confirmed by experience.

"Whereas, notwithstandiug all efforts which may be made on the coast of Africa for suppressing the Slave Trade, the facilities for carrying on that traffic, and avoiding the vigilance of cruizers, by the fraudulent use of flags, and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed unless all markets be shut against the purchase of African negroes, the parties to this Treaty agree that they will unite in all becoming representations, and remonstrances, with any and all Powers within whose dominions such markets are allowed to exist; and that they will

urge upon all such Powers the propriety and duty of closing such markets effectually, at once, and for ever."

The obstacles in the way of the successful operation of the blockade system have been rendered sufficiently obvious by the experiment that has been made. The extent and indentations of the coast, the insalubrity of the climate, the paucity of the civilized settlements, and the want of co-operation on the part of the native population, together with the measures resorted to by the slave-traders, render it difficult, almost impracticable indeed, hermetically to close this long sea-margin, occupying the tropical regions of the continent.

But there are other causes in operation tending to affect the hopes heretofore so generally indulged, of the success of blockading squadrons upon the coast of Africa. The same state of things which has stimulated this trade into renewed activity, by the increased profits attending it, has produced a marked effect upon public opinion in Europe, and may lead to a relaxation in the measures for its suppression. The deficiency of labour in the tropical possessions of England and France, and the consequent falling off in their valuable products, now constitute a subject of anxious inquiry in both countries. The lamentable condition to which those once rich and flourishing colonies have been reduced under expectations which have not been realized, and the indolence and distress of the emancipated population, present matters of grave reflection, as well for the statesman as for the philanthropist. Means are in progress to remedy the evil, by the importation of labourers, but of their precise nature, and of the extent to which they have been, or are proposed to be carried, the information which has reached me is not as definite as is desirable. Independently of the supplies procured in other quarters of the globe, it is known that measures,



necessarily subject to great abuses. And this apprehension is confirmed by recent events, and, among others, by a statement made a few days since in the British House of Lords, where it was said that "this system meant nothing more nor less than purchasing negroes on the coast of Africa, and pretending to ship them as free negroes." It was also said upon the same occasion, and by the same distinguished speaker, that there was a frightful mortality among these "emigrants," and that they were treated precisely as the slave negroes used to be treated in the time of the old African Slave Trade. The Earl of Malmesbury said, that "between this new French plan of carrying free negroes and the old Slave Trade, there was a distinction without a difference; and he need not, he hoped, assure his noble friend that the Government would use all their endeavours to discourage the practice."

The inception and partial execution of these measures have produced an unfavourable impression, and have led to a fear in the public mind that the plan will practically prove to be but another form of slave-trading. Official reports have been received from the American African squadron confirming this opinion, and the Message of the President of Liberia to the Legislature, in December last, presents facts still further justifying the apprehensions to which this scheme has given rise. He states that its effects have already been felt, and that the measures have excited wars among the native tribes, with a view to the capture of prisoners, and their sale to the European adventurers.

But it is not at all necessary that I should enter into the consideration of these means of supply, except so far as they bear upon the question of the efficacy of a blockading squadron. For the subject has no other interest for The United States than as a general question, and, however extensive in its operation, still without peculiar application to them. They have no tropical colonies, reduced from a state of prosperity to adversity, and which they seek to redeem from this condition by the introduction of "involuntary emigrants," of any colour whatever, for the purpose of carrying on the labours of agriculture. They have no necessity, nor any design to resort to other countries for a supply of forced labourers, whether coolies, or emigrants, or apprentices, or by whatever name denominated; or of any labourers who, if not compelled by actual force to enter into distant servitude, are compelled thereto by considerations little less voluntary, and in utter ignorance of the true condition into which they are about to enter. This state of things, while it offers no justification for the African Slave Trade, indicates a relaxation of public opinion, which has already made itself evident, and has led to measures which may impede the operations and efficiency of the squadron of observation and repression.

That this change of opinion thus brought about, and the efforts to repair, in some way, the evils that are felt, have produced their effect upon public sentiment, is undeniable, and they may have operated, also, in some quarters, to diminish that repugnance to the Slave Trade which its nature, and the cruel circumstances attending it, are so well adapted to inspire. But, independently of the obstructions, both physical and political, to which I have adverted, and which stand in the way of the successful operation of the squadrons of suppression, there are important considerations, nearly connected with national rights, which offer still graver subjects for the consideration of this Government.

The Slave Trade has been recognized by the nations of the earth as a lawful commerce from the earliest period of history. When a growing sense of its injustice became prevalent, in more recent times, and induced a very general desire for its abolition, measures were proposed by the British Government, and, to some extent, carried into operation, which, if permanently established, might have destroyed the free commercial intercourse of the world.

Their character may be understood by the following remarks of that eminent Admiralty Judge, Lord Stowell, which are equally honourable to his wisdom and his independence. In the decision of the case of a French vessel seized upon the coast of Africa, he said, "No nation can exercise a right of visitation and search upon the common and unappropriated parts of the ocean, except from the belligerent claim. No nation has the right to force their way to the liberation of Africa, by trampling upon the independence of other States, on the pretence of an eminent good, by means that are unlawful, or to press forward to a great principle by breaking through other great principles which stand in their way." The principle involved in this assumption of power, was far more exten-



authority were, moreover, indemnified for all the consequences. Was it intended that the vessels of any Power in Europe might be searched, and afterwards allowed to proceed on their voyage, whether we had Treaties with such Powers or not? Such a law would be a perfect novelty in the legislation of this country, and the House ought well to pause before they adopted it."

Again, on the 10th of August, the Duke remarked, "It was well known that with The United States we had no Convention; there were indeed engagements, made by diplomatic notes, but nothing went to show the least disposition on their part to permit the right of detention and the search of papers; and if there was one point more to be avoided than any other, it was that relating to the visitation of vessels belonging to the Union. He warned Government not to proceed, but rather to issue an Order in Council or a declaration of war."

The Bill passed, however, notwithstanding the opposition of the Duke, who said "it still retained its criminal character—a breach of the Law of Nations," &c. And well did it deserve this condemnation; for it gave to the commanding officer of every cruizer the right to capture, and send in for adjudication, vessels engaged in the Slave Trade, "not being justly entitled to claim the protection of the flag of any State or nation;" thus constituting such naval officer a judge, with a jurisdiction as extensive as the high seas, to determine not merely the nationality of the vessel, and the object of her voyage, but whether she has violated the laws of her country, and by such violation has placed herself out of its protection, and at the disposition of every other Power.

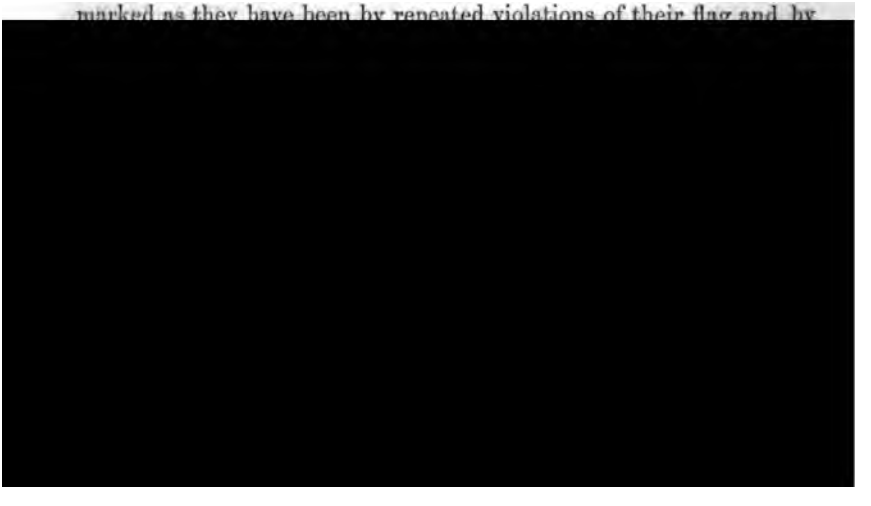
Almost all maritime nations have been engaged in the Slave Trade, and there are everywhere persons who would yet prosecute it, if not deterred by the danger of detection and punishment. Undoubtedly, a right vested in the armed cruizers of one State to stop and examine the merchant-vessels of another, might be so exercised as to contribute towards the suppression of the Slave Trade, as, indeed, its exercise might contribute towards the suppression of other crimes upon the ocean. But this power of armed intervention might also be exerted at the expense of the maritime rights of the world. Such an exercise of force, so liable to be abused, will never meet the concurrence of The United States, whose history abounds with admonitions warning them against its injuries and dangers.

They have no disposition to surrender the police of the ocean to any other Power, and they will never falter in their determination to enforce their own laws in their own vessels, and by their own power, and to oppose the pretension of every other nation to board them by force in time of peace.

Your Lordship, while stating that it is the habit of vessels upon

the coast of Africa to hoist the American flag, as a protection against British cruizers, remarks, that "this precaution does not protect the slaver from visit, but it exonerates her from search." The distinction here taken between the right of visitation and the right of search, between an entry for the purpose of examining into the national character of a vessel and an entry for the purpose of examining into the objects of her voyage, cannot be justly maintained upon any recognized principle of the Law of Nations. To the former, Lord Palmerston, in his correspondence with the American Minister at London, added that "the vessel must be navigated according to law." To permit a foreign officer to board the vessel of another Power, to assume command in her, to call for and examine her papers, to pass judgment upon her character, to decide the broad inquiry whether she is navigated according to law, and to send her in at pleasure for trial, cannot be submitted to by any independent nation without injury and dishonour. The United States deny the right of the cruizers of any other Power whatever, for any purpose whatever, to enter their vessels by force in time of peace. No such right is recognized by the Law of Nations. As Lord Stowell truly said, "I can find no authority that gives the right of interruption to the navigation of States upon the high seas, except that which the right of war gives to belligerents against neutrals. No nation can exercise a right of visitation and search upon the common and unappropriated parts of the ocean, except upon the belligerent claim."

The President of The United States, in his annual Message to Congress in December, 1841, denounced this pretension to detain and examine American vessels, as an interpolation into the Maritime Code of the word, to which The United States would not submit. The years which have passed since this authoritative declaration, marked as they have been by repeated violations of their flag and by



of the voyage," to an examination into "the language and general appearance of the crew, into the cargo on board, and the internal fitment and equipment of the vessel. These matters, it is obvious," he continues, "can only be ascertained by rigorous search." And the reasons originally urged by the British Government for the assertion and prosecution of this pretension, furnish, by their very nature, a powerful argument against its validity.

It was contended in its support that, without its exercise, the stipulations of certain Anti-Slave Trade Treaties (to which The United States were not a party) could not be enforced, and "that the present happy concurrence of the States of Christendom in this great object (the suppression of the Slave Trade) not merely justifies, but renders indispensable, the right now claimed and exercised by the British Government." And it was also contended that, without it, "even the laws of England might be set at defiance by her own subjects." And these considerations were formally presented to this Government by the British Government in justification of this attempt to change the Maritime Law of the world. But they are rejected by The United States, who claim inviolability for their vessels, and hold on to that great code whose integrity it is the interest of the strong, as well as the weak, to maintain and defend; and they deny the right of any Power, or of any partial combination of Powers, to interpolate into it any new principle, however convenient this may be found. And they derive neither confidence nor consolation from the assurance given to their Minister in London by an eminent British Statesman, at the head of the Foreign Office, that their vessels are not entered as their vessels, "nor is it as American that such vessels are ever visited." The immunity of their merchant-vessels depends upon the rights of The United States, as one of the independent Powers of the world, and not upon the purposes or motives of the foreign officers by whom it is violated. A merchant-vessel upon the high seas is protected by her national character. He who forcibly enters her, does so upon his own responsibility. Undoubtedly, if a vessel assume a national character to which she is not entitled, and is sailing under false colours, she cannot be protected by the assumption of a nationality to which she has no claim. As the identity of a person must be determined by the officer bearing a process for his arrest, and determined at the risk of such officer, so must the national identity of a vessel be determined, at a like hazard to him who, doubting the flag she displays, searches her to ascertain her true character. There, no doubt, may be circumstances which would go far to modify the complaints a nation would have a right to make for such a violation of its sovereignty. If the boarding officer had just grounds for suspicion, and deported himself with propriety in the performance of

his task, doing no injury, and peaceably retiring when satisfied of his error, no nation would make such an act the subject of serious reclamation. It is one thing to do a deed avowedly illegal, and excuse it by the attending circumstances; and it is another and quite a different thing to claim a right of action, and the right also of determining when, and how, and to what extent, it shall be exercised. And this is no barren distinction, so far as the interest of this country is involved, but it is closely connected with an object dear to the American people—the freedom of their citizens upon the great highway of the world.

The British Government assume that an armed cruizer of their country, possessing a right, under the Law of Nations, to enter a merchant-vessel of another Power for a specified purpose, has the right also, such entry having been effected, to convert it to another and very different purpose, to the enforcement of the claims of Great Britain, without any avowed limitation of the extent to which this dangerous power may be carried. The consequences of such an authority, if once established, are too obvious to need examination, and would be too dangerous in their practical operation not to unite the other commercial Powers of the world in a firm determination to resist it. Should this claim of visitation become a part of the Law of Nations, it would enable a boarding-officer in all times hereafter, during both peace and war, as the claim has done before in time of war, forcibly to take the citizens of another Power from its own vessels, for the purpose of serving in the British Navy. But the principle of this inquisition and conversion is capable of indefinite extension, and in the progress of events may be used to subject the cargo as well as the crew to the claims and regulations of a foreign Power, thus destroying in effect the free intercourse of the world.



it is devoted, than an English ship-builder who sold vessels constructed in his yard, which were afterwards dispatched to the coast of Africa. Our laws prohibit and provide severe punishment for the fitting out of vessels for the African Slave Trade, and the proper officers are instructed vigilantly to enforce their execution. But they often find it difficult to prove the object of the proposed voyage, and vessels no doubt escape detection, as well as condemnation, and proceed to sea from this absence of proof. And where is the country under Heaven whose laws are not set at nought in the search after gain, and rendered inoperative by the same difficulty of bringing the proof home to the offender? But when such vessels pass beyond the jurisdiction of The United States, and are sold, as they generally are, to foreigners engaged in this business, a very erroneous impression of the true state of things is produced, by formally enumerating them by name and by port as American vessels.

Upon this subject Commodore Conover reported from the African coast, in October last, that in a list of vessels captured by British cruizers, which was prepared by the Lieutenant commanding Her Britannic Majesty's steamer *Antelope*, and delivered by Commodore Wise to Commander McBlair, are mentioned several Spanish and Portuguese vessels which "sailed under American colours, proving on examination, to have been fraudulently assumed." And Commodore Crabbe reported that in most, if not all the cases in which the American flag is used in this traffic, the vessels are manned, not by Americans but by foreigners. And though some of these vessels may belong to American citizens, yet the information received at this department induces the belief, that, by far the greater portion are owned in Cuba, where many are fitted out and prepared for their work, and with a publicity which holds in contempt the illegality, as well as the immorality, of these expeditions.

I have no doubt but that your Lordship is correct in the statement that the American flag has been fraudulently assumed by the vessels of other nations engaged in this traffic. It is an abuse to which all flags are liable, which is inseparable, indeed, from the freedom of the seas; and, in a debate in the British House of Lords on the 16th of March last, it was said by an eminent member of that body, "that the French flag had been made use of by Spanish slave-dealers to cover their nefarious traffic."

It is quite probable that a more accurate examination than I have the means of making might show that vessels, English-built and English-owned, have also been employed in pursuing this illegal occupation. And I am justified in this suggestion by a fact

which has just come accidentally to my knowledge. It is the prosecution in England of an English vessel which had been thus engaged. Since the receipt of your note, and while looking over the London "Times" of December 11, 1857, I observed the report of the trial of a vessel, the *Newport*, for participation in this traffic. It was before the Judicial Committee of the Privy Council, upon an appeal from the Vice-Admiralty Court of St. Helena, which had condemned the vessel. The ultimate issue is not stated, but there is no doubt of the guilt of the parties. Other similar cases might probably be found by even a cursory perusal of the published proceedings of the tribunals having jurisdiction over these subjects. Human cupidity is confined to no one nation, and it is too often gratified without regard to legal or moral duties; certainly without regard to political or geographical boundaries.

Some time since, in conversation, your Lordship remarked that the force which The United States were bound by Treaty to employ upon the coast of Africa, had not always been maintained at its full complement. I was not aware of the fact till my attention was thus directed to it; but on making inquiry in the proper quarter, I found the statement was correct, and I found also, as I have already informed you, that the British Government were in the same predicament, their squadron not having always possessed the strength required by the Treaty. I assured you, also, that I could not ascertain the cause of this deficiency, but that the requisite appropriations had been annually made, and that care would be taken to prevent a similar accident hereafter. Your Lordship has thought it proper again to present this subject in a more formal manner, though, after the conversation which had passed between us, and the assurances I gave, I did not suppose you attached sufficient importance to these accidental omissions to render a renewal of the subject necessary, more especially as Great Britain required similar forbearance on the part of The United States. Your Lordship has been unable to ascertain the cause of this failure on the part of your Government, but you conjecture that it may have been owing to the demands of the Crimean War, and to a change in the class of ships employed. Certainly, the instances of accidental non-compliance by The United States with the Treaty stipulations, some of which had occurred years since, and had passed without complaint, might be regarded with equal charity. Both parties have failed literally to enforce the Treaty, and the work of supererogation, in maintaining during some years a greater force than is required by it, and which is assumed by your Lordship as an equivalent, and may be so assumed by The United States, does not repel the charge of a non-compliance during other years when the force was less than

the Treaty required. But I repeat the assurance already given that the requisitions of the Treaty will be faithfully observed by The United States so long as it may continue in force.

But while renewing this assurance, the President trusts that such instructions will be issued by your Government to the British naval officers employed upon this service, as will prevent all interference with American merchant-vessels, and thus prevent the recurrence of those causes of complaint which, during almost 20 years, have been often the subject of remonstrance upon the part of this Government. The United States have a legitimate trade with the Western Coast of Africa, which is already important and is annually increasing in value. The articles exported from this country are exchanged for palm oil, ivory, hides, dye-woods, and other productions of that extensive region. Vessels lawfully engaged in this commerce, and approaching the suspected latitudes, become themselves suspected, and will be liable to vexatious interruptions, if this claim forcibly to board and examine them is once established. The evil has already been felt, and if the practice is not discontinued, it will go on increasing, not only in derogation of national rights, but to the serious injury, perhaps to the destruction of this branch of American commerce. The very nature of these interruptions almost necessarily leads to abuses. The boarding officer is supported by a competent force while taking the command of a foreign merchant-vessel. He pursues his examination at pleasure, detaining the vessel if he thinks proper, and sending her in for trial if not satisfied. It is not necessary to pursue this recapitulation, as the circumstances attending these naval inquisitions are well known, and have been rendered familiar to the people of The United States by grave occurrences in their history. Such vexatious interruptions would go far towards the annihilation of the growing commerce between The United States and Africa, leaving it to be pursued by the more fortunate adventurers of other nations not exposed to similar obstructions. And the interruptions may be accompanied by circumstances little compatible with the continuance of those friendly feelings which now happily unite our respective countries. An occurrence of this nature has just taken place, if the report from Savannah, now going the round of the papers is correct, that an American vessel, the *N. B. Borden*, engaged in a lawful trade, was fired at by the British steam-vessel of war, the *Styx*, on the high seas, off the coast of Cuba, and forcibly detained and examined. The report may be incorrect, but I have written for the necessary information, and if I find, when received, that it corroborates the published statement, I will communicate the result to your Lordship, with such representations as the cir-

cumstances may call for. But it is obvious that a serious collision may occur at any time when a British armed vessel meets an American merchantman, so long as this pretension is exercised.

Your Lordship disavows, on the part of your Government, the right of British cruizers to detain an American vessel, even if found engaged in the Slave Trade. In view of this disavowal, I am at a loss to comprehend why an American vessel, when detained upon the high seas, should destroy the evidences of her nationality, and suffer herself to be captured, when, by maintaining her true character, she would be beyond the control of any cruizer, except one of her own nation. A despatch from the commanding officer of the American squadron upon the coast of Africa, Commodore Conover, to the Secretary of the Navy, dated October 19th, 1857, throws light upon this subject, and shows the danger of abuse which surrounds this whole matter. He states that American vessels employed in the Slave Trade have been encouraged by the officers of British cruizers to throw their papers overboard, in order to avoid the punishment of death, and have been thus taken without any evidence of nationality. The reason assigned for this procedure is said to be, that the punishment of this offence, by the laws of The United States, being death, persons found committing it, under the American flag, if they cannot escape, prefer to be captured by a British cruizer, with the chance of impunity, or, at any rate, of a less penalty than capital punishment. The crew is landed upon the nearest part of the coast, while the vessel is sent to an Admiralty Court for condemnation, and the proceeds, or a considerable portion of them, distributed as prize money, and an allowance made for each of the captured slaves. And such slaves, it is understood, are transported under prescribed regulations, defining their condition, to the British tropical possessions in America. How far these



of this armed interference by foreign cruizers with American vessels; and it shows, also, that sometimes the condemnation of the vessel is a nearer object than the punishment of the crew.

After reporting the capture of the *Bremen*, bearing the American flag, Commodore Conover says, that "this seizure appears to me only an instance of the method usually adopted by Her Britannic Majesty's cruizers on this coast to secure as prizes American slavers, and may serve to explain what before seemed very strange, that so many vessels should be reported by the British Commanders as having been captured without flag or papers."

Commodore Conover also inclosed the report of Commander McBlair, commanding The United States' sloop of war the *Dale*, who had sent two of his officers, Lieutenants Pelot and Davidson, to Commodore Wise, in command of the *Vesuvius*, by which vessel the *Bremen* had been captured, in order to ascertain the true circumstances of the case. Commander McBlair reported that Commodore Wise said to Lieutenant Pelot, that when the *Vesuvius* neared the *Bremen*, this latter vessel "hoisted American colours, and hove-to. Commodore Wise boarded her in person, and having reason to suppose that the vessel was engaged in the Slave Trade, informed her commander, who appeared to be a Portuguese, that it was his intention to take the vessel, and that he did not wish to see her papers; at the same time giving him his choice whether to be taken under the American flag, or otherwise. The captain made some unintelligble expression about being taken as a pirate, and the mate hauled down the colours immediately. The papers were then thrown overboard, and the vessel was seized as a prize, 'without colours or papers.'

"The officers and crew of the vessel, with the exception of the cook, were landed on the nearest part of the coast, and she was sent to Sierra Leone."

Commander McBlair also reported that Lieutenant Davidson asked Commodore Wise whether, in the event of his meeting with an American slaver under American colours, and bearing genuine papers (which, of course, she would have obtained when she cleared for other purposes than slaving), he would use means to induce the captain to throw his colours and papers overboard. He replied, "Well, I might stretch a point, and tell the captain the *Dale* was just near at hand."

Commodore Conover immediately addressed a letter to Rear-Admiral Sir F. W. Grey, the British commanding officer upon the station, protesting against this action of Commodore Wise, as an interference with the rights of Americans to take and bring to merited punishment those who, while they bear the flag of The United States, offend against its laws; and protesting against it

also for other just reasons, which he urges, growing out of this assumption of power. I do not doubt but that this subject will engage the attention of your Government with a view to the correction of the evil.

I have already informed your Lordship that I have not the means of verifying the lists of the vessels which you have transmitted, or of ascertaining whether the rights of The United States may have been violated by the capture or condemnation of any of them. But the circumstances reported in your letter of January 17, 1858, respecting the vessel the *Louis McLane*, are sufficiently grave to call for an investigation. You state that this vessel, sailing under the American flag, was captured by Her Britannic Majesty's cruizer the *Alecto*, and that her papers were "of a character so fraudulent or imperfect as to constitute no evidence of American nationality."

It is not shown what was the nature of the papers, nor in what the fraud or imperfection consisted. I am at a loss, therefore, to understand the ground of justification for the capture of this vessel, more especially as she sailed with regular papers, furnished by the collector of New Orleans, and I can perceive no motive the captain could have had to replace these by fraudulent or imperfect papers, while still claiming American nationality. When I received your Lordship's letter calling my attention to this case, I communicated a copy to the collector, requesting from him the necessary explanation. He informed me in answer, that having reason to suspect the illegal destination of the *Louis McLane*, he caused her to be watched; but not being able to procure the necessary proof for her condemnation, he granted her a regular clearance; and, at the same time, agreeably to previous arrangements, he telegraphed to the captain of the revenue cutter stationed at the mouth of the Mississippi, instructing him to overhaul the *Louis McLane*, and to examine her

[redacted]

was, however, so clear, that an appeal was taken from The United States' District to The United States' Circuit Court, while the vessel, released on bonds, proceeded to sea. I append a copy of the letter, not merely as an act of justice to the collector, but also because it shows the zeal and efforts which are used to enforce the laws upon this subject, and the difficulties the officers have to encounter. The collector, as your Lordship will observe, desires copies of the papers to which he refers, as they may be useful in the further judicial proceedings at New Orleans, touching the *Louis McLane*.

If in your Lordship's power, I should feel obliged if you would have the copies forwarded to this department, as it is important that the circumstances of this capture should be fully known to the Government, that such measures may be taken, with relation to it, as the facts, when disclosed, may call for. The papers will ultimately be forwarded to the collector.

In conclusion, I am instructed by the President to inform your Lordship, that while he is determined to execute the Treaty of 1842 with fidelity and efficiency, he is not prepared, under existing circumstances, to enter into any new stipulations on the subject of the African Slave Trade. I have, &c.

Lord Napier. LEW. CASS.

(*Inclosure* 2.)—*Mr. Hatch to General Cass.*

Custom House, New Orleans,

SIR, *Collector's Office, March* 18, 1858.

I HAVE the honour to acknowledge the receipt of yours of the 8th instant, with the inclosed communication from Lord Napier, Her Britannic Majesty's Minister in this country, in reference to the recent revival of the African Slave Trade, under the fraudulent assumption of The United States' flag, and referring to the departure of the *Charles*, of Baltimore, from this port, with which censure is attached to the customs authorities, "for permitting this vessel to clear with a manifest that might justly have excited their suspicions."

In cheerfully acceding to your request for any information on the subject, I have the honour to state that, by a reference to the files and records of this office, I find that the *Charles* cleared from this port on the 28th of March, 1857, three days before I assumed the duties of the office of collector.

In examining these documents, I find reference is made to the capture on the coast of the schooner *Louis McLane*, and as this vessel cleared from this port during my administration, I deem it proper to state the facts connected with this case, which are as follows:

In the month of April 1857, the schooner *Louis McLane* changed

owners in this city, and obtained a register from this office. Some circumstances connected with the change of ownership, and the loading and arrangements of the vessel, excited my suspicions that she was designed for the African Slave Trade; that, in order to obtain evidence sufficiently positive for legal action, I caused her to be closely watched; but though the information thus obtained was convincing to me, it was not of a character that would be available in a legal prosecution. With the desire, therefore, to accumulate evidence and to confirm my suspicions, by enabling the vessel to complete her equipments, I deemed it advisable to grant her a clearance, which I did on the 1st of May, 1857. And having previously communicated with the commander of the revenue cutter, stationed at the mouth of the river, and prepared him for the duty to be discharged, I, immediately on granting the clearance, telegraphed to the captain of the cutter to overhaul the *Louis McLane*, on her reaching the mouth of the Mississippi river, to examine her thoroughly, and if he found evidence to justify the suspicions I had entertained, to take charge of the vessel and bring her to the city.

The result was the arrest of all the persons on board, the return of the vessel, the discharge and careful examination of her cargo, the examination of the vessel and her equipments by several experienced persons, some of whom having been on the Coast of Africa, were competent judges, and the institution of legal proceedings against both the vessel and the parties arrested.

In these proceedings every effort was made, by the most careful and constant attention to the subject, to convict the parties accused, and to condemn the vessel.

The accused were defended by able counsel, and released on the preliminary examination; and in the action against the vessel, although to my mind the evidence was conclusive, the Government



difficult to obtain a verdict before a jury; yet, the charge of laxity, or even lukewarmness on this subject, among the officials of the Government, is without reason or foundation, and I am satisfied that my official colleagues as well as myself have been active, vigilant, and energetic, in the endeavour not only to discover attempts at violations of our laws prohibiting the Slave Trade, but also zealous in their efforts to obtain evidence to insure conviction and condemnation, in cases where arrests have been made, or proceedings instituted.

It shall continue to be the special care of this department to scrutinize the manifests of all vessels to which the slightest suspicion may attach of their being connected with this traffic, and adopt the most prompt measures to preserve the enactments of Congress on this subject from violation.

Any information that I may obtain relating to this subject, shall be most cheerfully placed at the disposal of the Department of State.

I am, &c.

General Cass. F. H. HATCH.

(*Inclosure* 3.)—*Lord Napier to General Cass.*

SIR, *Washington, April* 16, 1858.

I HAVE the honour to acknowledge the receipt of your note of the 10th instant, relative to the prosecution of the African Slave Trade under the fraudulent assumption of the American flag, and respecting the course adopted by Her Majesty's Government and the British cruizers in the repression of this nefarious traffic. Your remarks will be transmitted for the consideration of Her Majesty's Government.

With reference to the case of the *Louis McLane*, to which you have particularly alluded, I learn from the correspondence forwarded to Her Majesty's Legation that this vessel was detained by Her Majesty's ship *Alecto*, on the ground that her papers were imperfect, or fraudulent, and under the conviction that she was not justly entitled to the protection of the flag which she had adopted, being deficient in various particulars requisite to confer a character of nationality.

The suspicions of the Commander of the *Alecto* were immediately justified by the conduct of the master of the slaver. He threw his papers and colours overboard, and surrendered himself as a lawful prize, making declaration that he was engaged in the Slave Trade, as appears by the document bearing his signature, of which copy is inclosed herewith. The name of the vessel was verbally conveyed to Commander Hunt previous to her detention. She is stated to have been a schooner of 176 tons burthen, American measurement. It may not be easy now to obtain an accurate report of the defect in her papers, as the latter have perished by the act of the master;

but I will lose no time in making a communication of your wishes on this subject to Her Majesty's Government, in order that the proceedings of the Federal authorities at New Orleans may be conducted with all the information which we are enabled to supply.

I have, &c.

General Cass. NAPIER.

No. 2.—Mr. Dallas to the Earl of Malmesbury.—(Rec. June 1.)

My Lord, *Legation of The United States', London, May 31, 1858.*

Referring to our conversation of this morning, I have now the honour to comply with your Lordship's request, by inclosing a copy of the despatch received by me on Friday last from the Secretary of State at Washington, to which despatch were annexed the Consular report and affidavits, whereof copies were left with your Lordship.

I beg, &c.

The Earl of Malmesbury. G. M. DALLAS.

(*Inclosure* 1.)—*General Cass to Mr. Dallas.*

Sir, *Washington, May 12, 1858.*

The accompanying papers, copies of the originals, which have been just received, will make known to you another outrage committed against the rights of The United States by a British armed vessel, which calls for the immediate attention of the British Government. I am persuaded that if the occurrences took place as they are stated, the conduct of the British officer will be disavowed and condemned.

I beg you would communicate to Lord Malmesbury the earnest desire of the President that this practice, which seems to become more prevalent, of detaining and searching American vessels, should be discontinued, and that the most peremptory orders for that



matter to the attention of the Earl of Malmesbury, with a view to the correction of the evil. I am, &c.

G. M. Dallas, Esq. LEW. CASS.

(*Inclosure* 2.)—*Mr. Blythe to Mr. Appleton.*

SIR, *Havana, April* 29, 1858.

I HAVE received definite information that the schooner *Cortez*, of New York, James M. Durand, master, was captured by the British screw gun-boat *Forward* on or about the 15th instant, about half way between Havana and Matanzas, at a distance of about 35 miles from the Cuban coast. Before proceeding to give such facts in relation to her seizure as have come to my knowledge, I will premise by stating that for some time past a number of British gun-boats, and other larger vessels of war of that nation, have been very active in cruizing for slavers, both on the north and south side of this island.

Many complaints have been made to this office by American masters, that these British men-of-war have exercised about the vessels under their command in this harbour, a system of espionage, exceedingly annoying to them in their business, and, from the manner in which it has been done, insulting to their national feeling. Whilst two of these British war-ships were in this port (I learn from American masters then taking on freight), they were in the daily habit of sending their boats around the harbour, and stationing them near such vessels as were lading; that they would carefully note every article taken on board, and in some instances were so pertinacious in their surveillance as to put themselves in the way of the lighters bringing cargo.

The American brig *A. A. Chapman*, engaged as a regular packet between this port and New Orleans, was thus annoyed on her last visit here. Her commander complained at this office on the eve of his departure, and expressed apprehension that he would be followed out to sea and boarded: a rumour was in circulation that she was boarded after leaving the port. I had no means of ascertaining the truth of the rumour, but presume, if it was true, the fact was reported at the Custom-House in New Orleans.

A few days after the *Chapman* left, the *Brownsville*, Captain Simpson, engaged in the same trade, presented a similar complaint, alleging that a British man-of-war's boat lay constantly by him, watching everything that went on board, and interfering with his launches.

I present these facts, as they are the subject of much conversation in shipping, and have caused great indignation among American citizens here.

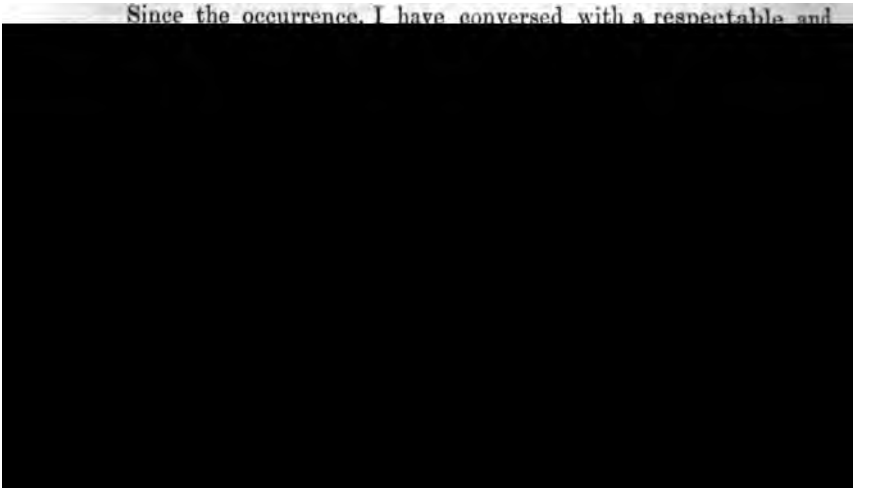
The *Cortez* arrived here on the 20th of March from New York,

under the command of her sole owner, Adam A. Smalley. On the 27th he appointed his mate, James M. Durand, master of the schooner, and executed at this office, in favour of said Durand, a power of attorney, authorizing him to sell the schooner if he could, or charter her. She cleared at this office on the 13th instant, for Annobon, with an assorted cargo, and sailed on the next morning. The parties interested in the cargo have since furnished me the charter-party and bill of lading, which I herewith transmit to the department.

Learning that several of the crew and passengers had arrived here, and desired to make their complaint at this office, I caused them to come before me that I might receive their statement of the facts under oath. I transmit to the department the testimony of the mate, three of the seamen, and three of the passengers. I learn that the passengers, who say a large amount of money was taken from them, purpose presenting a demand for its restitution, and for damages, through this office. When they present themselves for that purpose I will, of course, receive their protest, and forward it to the department.

Captain Durand's conduct, as disclosed by the testimony, seems to have been very strange. It seems to be the fixed opinion of the mate that he sold the vessel for a consideration. What were the contents of the paper which the mate and men say was signed by the captain, I have not been able to ascertain. If the vessel was bound on a slave-voyage, then the captain should certainly be punished for prostituting the flag of our country to such a purpose; if she was not, and her commander so represented her for a consideration, then he is equally guilty, and should certainly be punished.

Since the occurrence, I have conversed with a respectable and



in port, and complains that on the 15th instant, whilst on his passage from Antwerp for this port, he was stopped by Her Britannic Majesty's steamer *Basilisk*, and boarded by one of her officers, accompanied by a detachment of men; the officer asked him the particulars relating to his ship, and stated to him that he had orders from the Admiral at Jamaica to board every vessel found in the neighbourhood of the coast of Cuba. I will transmit by next mail his sworn statement of the facts.

I content myself, and deem that therein I have done my whole duty, in presenting a simple statement of such facts as have come to my office. I make no suggestions concerning the right of foreign men-of-war to visit or detain, at sea, vessels bearing the flag of The United States.

Under any circumstances I would doubt the propriety of discussing such principles in a communication to the department. Under existing circumstances, I conceive that it would not only be supererogatory, but presumptive on my part, as it is a subject with which the chief of the department is believed to be more conversant than any living statesman. I have, &c.

— *Appleton, Esq.* A. K. BLYTHE.

(*Inclosure* 3.)—[Here follow the Depositions, &c.]

No. 3.—*The Earl of Malmesbury to Mr. Dallas.*

SIR, *Foreign Office, June* 1, 1858.

I HAVE the honour to acknowledge the receipt of your letter of yesterday, inclosing a copy of a despatch from the Secretary of State of The United States, and referring to various documents annexed to it, complaining of the detention and search of certain American vessels by British cruizers, and stating that while the Government of The United States is determined to use all proper exertions for the suppression of the Slave Trade, it is not less desirous that the just immunity of the vessels of The United States upon the ocean should be preserved.

I can assure you, Sir, in reply, that Her Majesty's Government are as anxious as the Government of The United States to prevent such occurrences as those to which General Cass alludes in his despatch; but the difficulties by which the question is beset are mainly occasioned by the practice of vessels engaged in the Slave Trade, making use of the flag of The United States to cover their nefarious enterprizes.

Her Majesty's Government are persuaded that the Government of The United States view this practice with the utmost indignation, and I do not therefore hesitate to request you, Sir, in pointing out

the difficulties to your Government, to add that Her Majesty's Government would rejoice if the Government of The United States could suggest any means by which such an objectionable practice should be put a stop to.

In the meanwhile, however, the Board of Admiralty have enjoined the British naval commanders to carry out this duty, in regard to the suppression of the Slave Trade, on which they are employed, in a manner as little calculated as possible to give occasion to complaints such as those made by General Cass; and those injunctions will be repeated, and more specifically addressed, to the commanders of the British cruizers off Cuba.

And, as regards the particular case of the *Cortez*, to which the papers which you left with me yesterday refer, I will lose no time in transmitting those papers to the Board of Admiralty, in order that the circumstances therein set forth may be strictly investigated.

I am, &c.

G. M. Dallas, Esq. MALMESBURY.

No. 4.—Mr. Dallas to the Earl of Malmesbury.—(Received June 3.)

My Lord, *London, June 3, 1858.*

I have the honour to acknowledge the receipt of your Lordship's letter of the 1st instant, unfortunately too late in the evening of that day for immediate transmission to the Government of The United States.

At the interview with which I was honoured by your Lordship on that morning, I felt it a duty to recapitulate summarily, and with entire frankness, the circumstances which impelled me to waive the dilatory form of written communication in favour of prompt verbal representation: circumstances, as I conceived, giving to the actual



forwarded to Washington without loss of time; but, under the clear and consistent positions heretofore, and for many years, taken by my Government, uniformly asserted in instructions to my predecessors and myself, and steadily on every appropriate occasion stated in the correspondences of this Legation, in regard to any exercise of an alleged right to stop, detain, visit, or search the merchant-vessels of The United States, navigating, under the national flag, the highway of nations, in a time of peace, I feel myself bound in candour to say, in advance,—and with a faint hope that it may yet be not absolutely unavailing,—that the contents of your Lordship's note are not likely to assuage the deep feeling excited among my countrymen by a series of abrupt and violent assaults upon their commerce, and not likely to prove satisfactory to the American Executive.

By the fraudulent prostitution of their flag, to cover a trade which, as respects their own citizens, they have subjected to the penalties of piracy, The United States are treated with a licentious insolence to which all nations are equally liable, happily, however, only from the recklessly criminal. To resent, and, if possible, to punish and prevent that insolence, is a duty exclusively incumbent upon their own self-respect; and their exertions to effect that object in every legitimate way are constant, unwearied, and sincere. But can it be pretended, for a moment, that the wrong thus inflicted by conspirators and outlaws should constitute a motive for the American Government to yield their equality among nations; to forego their acknowledged rights under the Law of Nations; to subject, voluntarily, their commerce to a foreign maritime police, and so surrender their flag to the double indignity of misuse by the wicked, and challenge by the strong?

The President cannot doubt the solicitude of Her Majesty's Government to preserve unimpaired the friendly relations of the two countries; but he will, I fear, perceive in your Lordship's note no features more promising to the future than those which for the last 20 years have proved unhappily ineffective. He has expressed "an earnest desire," at a moment of almost universal excitement among his countrymen, that the practice of detaining and searching American vessels should be "discontinued;" but he has failed to obtain from your Lordship more than the assurance of fresh instructions from the Board of Admiralty to British naval commanders, that the "duty in regard to the suppression of the Slave Trade" should be carried out, not by "discontinuing" the practice so deeply painful to the American Government and people, but "in a manner as little calculated as possible to give occasion to such complaints as those made by General Cass." Your Lordship, in whose just and liberal sentiments unlimited reliance is placed, will, I am sure, pardon me for suggesting that this answer may probably

be appreciated as offering a palliative only for trespasses whose "discontinuance" is not promised. Renewing, &c.

The Earl of Malmesbury. G. M. DALLAS.

(*Inclosure* 1.)—*Mr. Blythe to Mr. Appleton.*

SIR, *Havana, May* 8, 1858.

IN my previous despatch, I stated I had received information that the passengers on the *Cortez* purpose presenting a demand for the restitution of the money and effects taken from them, as also damages for the wrongs and injuries they sustained through the Government of The United States. Since which time they have appeared at this office, have set forth by protest their wrongs and demands, and have memorialized the President in relation thereto. The memorial and a copy of the protest I herewith transmit to you.

I send to the department also a sworn statement of Captain Laurent, of the brig *A. A. Chapman*, from which you will perceive he was not boarded, as was rumoured, having escaped the annoyance by out-sailing the British war-steamer.

Since the date of my last communication I learn, through an American resident in Sagua, that all the American vessels in that port, numbering about 15, were visited and boarded while lying in port by British armed boats. He states an additional fact, of no less interest to us, to wit, that a Spanish ship, which he himself was loading with sugar for Europe, was subjected to the same examination by the same party; that on the latter the visiting party went so far as to go down into the hold of the vessel, and bore into the boxes of sugar. This latter fact discloses the folly of an application to the Spanish authorities to protect our vessels while in their ports.

You will perceive I give the facts alleged to have occurred at Sagua simply as the report of a private individual. This gentleman

such is the principle announced by us it can but be matter of mortification to all who feel an interest in our flag to see the principle violated constantly, almost in sight of our own shores.

In the case of the *Cortez*, I ask leave to say, in conclusion, that the same motive to action on the part of the agents of the British Government which has been illustrated in antecedent cases, is conspicuous and prominent. Whatever may be the motives of the British Government in giving its orders, the desire of gain is certainly most manifested in the execution of those orders.

I have, &c.

— *Appleton, Esq.* A. K. BLYTHE.

(*Inclosure* 2.)—[Here follows the Protest.]

No. 5.—The Earl of Malmesbury to Mr. Dallas.

SIR, *Foreign Office, June 7*, 1858.

I HAVE had the honour to receive your note of the 3rd instant, and I regret to learn that you consider that my note of the 1st instant will be unsatisfactory to the Government of The United States. You will, perhaps, be inclined to modify that opinion if you take into consideration the circumstances attending its transmission to you.

You will recollect that when you called on me on Monday, the 31st, you urged upon me how desirable it was that you should be enabled to transmit by the mail of next day an expression of the anxiety felt by Her Majesty's Government to put an end to the excitement which existed in The United States in reference to the alleged outrages.

The note which I addressed to you was in that sense.

It assured you that Her Majesty's officers had been instructed to discharge their duty with the utmost discretion.

That note, however, must not be understood to be intended as a final and categorical answer to the specific complaints brought forward by your Government, nor am I in a condition even now to admit, or comment upon, *ex parte* accusations of an almost incredible character, brought against certain British officers, in the absence of any account from themselves of the transactions in question, and without having heard what they could say in their own defence.

I pointed out to you, in the course of our conversation, the increasing practice of hoisting American colours by slavers, and I beg leave herewith to transmit to you an extract of a despatch from Her Majesty's Consul-General in Cuba relative to the extensive use made of that flag to cover the Slave Trade.

I am now, Sir, also able to send you an extract of a despatch received by the Board of Admiralty from Commodore Kellett, the

officer in command of Her Majesty's naval forces at Jamaica, from which document it will be seen that, according to his report, the schooner *Cortez*, recently captured by the British cruizer *Forward*, was in possession neither of colours nor of papers when boarded and taken.

General Cass, in his note of the 12th of May, a copy of which you have sent me, observes, that "whatever may have been the real object of the voyage of the *Cortez*, if she had papers showing her American character, she was subject neither to search or capture by a British cruizer;" from which declaration I infer that his Excellency would admit her liability to such proceedings if neither her papers nor her colours were forthcoming.

With statements so conflicting as those made respectively, on a point of such importance, by the British captain and the complainants, whose affidavits you have forwarded to me, the truth of the case can only be decided by time and investigation.

Her Majesty's Government have ordered a strict inquiry into the acts of Her Majesty's ship *Forward* and Her Majesty's ship *Styx*; Her Majesty's Government will also immediately give instructions to prevent, and cause to be discontinued, at the Havana, any offensive acts of "espionage," such as described by The United States' Consul, and any interference which could impede the business of the American masters; but Her Majesty's Government having never issued any orders which could justify such proceedings on the part of British officers within Cuban waters, must, until receiving further evidence, be permitted to believe that some misapprehension has existed on this point.

Although, Sir, you appear to have expected me, within less than 24 hours, to make a "declaration" upon a subject so fertile in controversy, and so difficult to settle consistently with the ancient law



account of the interruption caused to American ships by British officers, which you have sent me, accompanied by a note from yourself.

I can at present only add that these acts, as reported, would appear to be so indefensible, that I cannot but hope there must be some misrepresentation or exaggeration in the accounts which your Government have received. M.

(*Inclosure* 1.)—*Consul-General Crawford to the Earl of Malmesbury.*
(Extract.) *Havana, May* 9, 1858.

THE abuse of the American flag to cover this abominable traffic has become so great as to be almost universal; the dodge (to use the expression) has been had recourse to, because of the exemption from search which The United States' Government pretend to and insist upon. But, if that flag is to be a cloak for such nefarious purposes, and continues to be prostituted to the carrying on of the Slave Trade in the manner it is, and has been for some time past, the good sense of the American Government will surely devise the means of correcting such a shameful abuse of the national banner as is now, almost every day, to be seen here, in turning American vessels into slavers, retaining their flag and papers.

The Earl of Malmesbury. JOS. T. CRAWFORD.

(*Inclosure* 2.)—*Commodore Kellett to the Secretary to the Admiralty.*
(Extract.) Imaum, *at Jamaica, May* 10, 1858.

I HAVE the honour to acquaint you, for the information of my Lords Commissioners of the Admiralty, that Her Majesty's gunboat *Forward* captured a schooner, on the morning of the 16th April, in latitude 23° 45′ north, longitude 82° 15′ west.

Mr. Rowlett, second master of the *Forward*, was placed in charge as prize master; he arrived here with her on the 3rd instant. The vessel has been put into the Vice-Admiralty Court, and will be adjudicated upon on Friday next, the 14th instant.

The name on the stern of this vessel is *Cortez*, of New York, but she had neither colours nor papers when boarded, and she is in every respect fitted for the Slave Trade.

The Secretary to the Admiralty. —. KELLETT.

No. 6.—*The Earl of Malmesbury to Lord Napier.*

MY LORD, *Foreign Office, June* 8, 1858.

I HAVE to acquaint your Lordship that Mr. Dallas called upon me this morning, on my invitation, and I had some conversation with him respecting the complaints made by the Government of The United States of the interference of British cruizers with American vessels suspected of being engaged in the Slave Trade.

The substance of what I said to Mr. Dallas on this matter is contained in the memorandum, of which I inclose a copy for your Lordship's information, and a copy of which I have also given to Mr. Dallas, who will transmit it to Washington by the American packet by which this despatch is likewise forwarded.

I also inclose a copy of the instructions given to the British cruizers on the coast of Africa, a copy of which I have given to Mr. Dallas. I am, &c.

Lord Napier. MALMESBURY.

P.S.—I will write to you, at length, by the packet of the 11th instant. M.

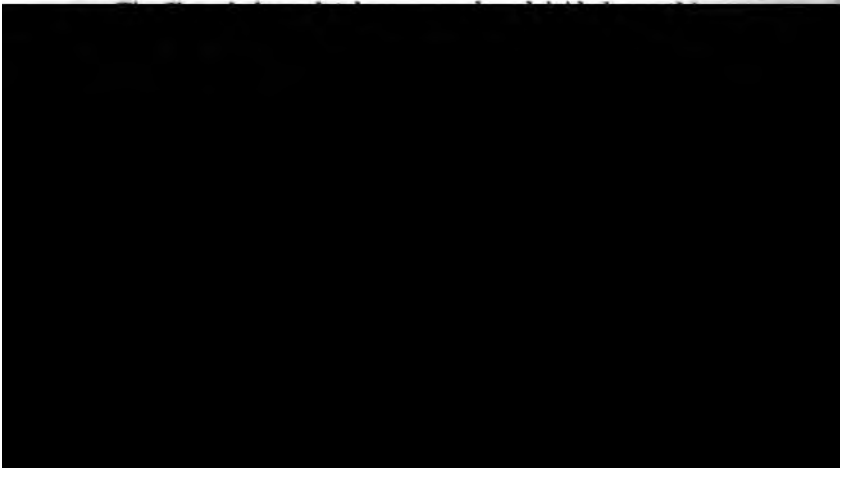
(*Inclosure* 1.)—*Minute of Conversation between Mr. Dallas and the Earl of Malmesbury, June* 8, 1858.

Her Majesty's Government are not prepared to justify or excuse such acts, on the part of their officers, as have been complained of by The United States' Government, if they are truly reported.

Her Majesty's Government recognize the principles of international law as laid down by General Cass in his note of the 10th of April, and that nothing in the Treaty of 1842 supersedes that law.

Her Majesty's Government, however, think it most indispensable to the interest of civilization, and the police of the seas, that there should be a power of verifying the nationality of a vessel suspected, on good grounds, of carrying false colours.

Her Majesty's Government would wish to learn from The United States' Government their views, in detail, on this point, in the hope that some mutual arrangement, by way of proceedings to be executed by our respective officers, may be found effective without being offensive.



the French flag can be legally visited or searched, unless, from positive information or from strong grounds of suspicion, there may be reason to believe that such flag has been fraudulently assumed; in which case the utmost caution and circumspection must be used. All officers are required to observe that whenever vessels under the French flag may have been boarded upon suspicion, the masters or owners will be entitled to indemnity for any injury or losses which they may have sustained by detention, if it shall appear that the vessel is *bonâ fide* entitled to the protection of the French flag, whether engaged in the Slave Trade or not. It is only in cases in which vessels, not legally entitled to the protection of the French flag, may have assumed it fraudulently, that they can be lawfully detained or visited, and a special report in each case is to be sent direct to the Secretary of the Admiralty as well as to the Commander-in-chief, when vessels under the French flag may have been boarded on suspicion of fraud.

The same caution should be shown in visiting vessels suspected of fraudulently using the flag of The United States, or of any other nation with which Great Britain has not a Treaty under which the right of visit or search could be given to officers of Her Majesty's ships.

I am, &c.

To

No. 7.—The Earl of Malmesbury to Lord Napier.

MY LORD, *Foreign Office, June* 11, 1858.

YOUR Lordship has received from me a minute of the principal points of the conversation which took place between Mr. Dallas and myself on Tuesday last (the 8th instant) on the conduct of our officers cruizing on the coasts of Cuba.

It is to these points that I now revert at greater length, instructing you to bring them before The United States' Government, with the hope that some defined plan of action may be agreed upon by the two Governments, which may prevent, for the future, the possibility of conduct on the part of any officers of either navy contrary to international law.

You will frankly assure The United States' Government that Her Majesty's Government have received, with great regret, the accounts to which the notes of General Cass and Mr. Dallas refer, and for the truth of which the affidavits they have inclosed are put forth as vouchers; and Her Majesty's Government do not hesitate to say, that they are not prepared to defend or justify such acts on the part of their officers as have been complained of, if they are proved by the investigation which Her Majesty's Government have required. At the present time Her Majesty's Government

has no information to add to that which I sent you in reference to the capture of the *Cortez* by the *Forward*.

Her Majesty's Government recognize as sound those principles of international law which have been laid down by General Cass in his note of the 10th of April to your Lordship, principles which he supports by the authority of Lord Stowell and the Duke of Wellington, and Her Majesty's Government are also aware that nothing in their Treaty of 1842 with The United States supersedes that law.

Her Majesty's Government, however, think it most indispensable to civilization and the police of the high seas, that there should exist, practically, a limited power of verifying the nationality of vessels suspected, on good grounds, of carrying false colours.

It is acknowledged, on all sides, that this fraud has been exercised by pirates of every country, but that the flag of those nations, with whom Great Britain has no Slave Treaties, is the most often prostituted by these enemies of mankind.

The American flag has, therefore, constantly been desecrated to protect the nefarious practices of such men, and if The United States' Government should insist upon an inexorable adherence to the letter of international law, and that this determination becomes known to the world, The United States' flag will then be the only one to which these malefactors will have recourse for security, and the sight and approach of that now honoured banner on the high seas would, eventually, become the cause of just suspicion and alarm to the lawful but defenceless trader. But The United States' Government cannot desire such a consummation. Both passages in General Cass's able note, and the practice of the war navy of America, induce Her Majesty's Government to believe that the verification of nationality may be obtained by some mutual arrange-



had just grounds for suspicion, and deported himself with propriety in the performance of his task, doing no injury, and peaceably retiring when satisfied of his error, no nation would make such an act the subject of serious reclamation."

Her Majesty's Government agree entirely in this view of the case, and the question therefore becomes one solely of discretion on the part of the acting officer. It appears to Her Majesty's Government that it is one extremely dangerous to entrust, and onerous to bear: and that an exact definition of what each respective State would permit, for verifying nationality, and thereby securing general trade against piracy, should be agreed upon between Great Britain and The United States, and clearly embodied in their instructions of their naval commanders.

The cruizers of The United States do not themselves shrink from the responsibility of visit, for I find in the papers presented to Congress on the 21st of April last, the following allusion to their practice, as stated in a report from the commander of The United States' ship *Dale* at St. Paul de Loanda, October 9, 1857:

"On the 28th (September) I discovered a barque off Black Point; stood for her, and boarded her: she proved to be the French barque *Clara*, with a French officer on board to give her a national character." "In Loango Bay I examined the papers of the French brig *Merle*, of Havre, engaged in trading with the natives. From the degraded condition of the natives of the coast, I cannot but believe that this action of the French Government will result in their benefit."

You will therefore urge upon General Cass to suggest to Her Majesty's Government some rule to which our officers should mutually adhere under the "circumstances" which he describes "as going far to modify the complaint a nation would have a right to make for wilful violation of its rights of sovereignty."

The view taken of the question by Admiral Hamelin, as communicated to me a short time ago by the French Chargé d'Affaires, is, that in time of peace, the right to ascertain the national character of a foreign merchant-vessel should, except under peculiar circumstances and urgent necessity, be restricted in its exercise to compelling a merchant-vessel to show its colours; that, in certain cases, such a vessel may be spoken with, avoiding, however, any interruption of its course; and that, in order to warrant boarding a vessel under French colours, the proceedings of such vessel should be such as to afford reasonable grounds of suspicion.

This, to a certain degree, is a security against the fraudulent use of colours, and if Her Majesty's Government do not consider it as effective a process as they could wish should be exercised, and to which they would be ready reciprocally to subject the flag of

Great Britain, it is at least a safeguard against the occurrence of such acts as The United States' Government complain of, and restricts the discretion of officers within intelligible limits.

Mr. Dallas received from me a copy of the Admiralty's general instructions to Her Majesty's commanders, which appear to be entirely in accordance with the principles of international law laid down by General Cass in his note of the 10th of April, and if he has not furnished General Cass with a copy, your Lordship will do so.

Her Majesty's Government, anxious to remove all possible repetition of the acts which appear to have caused so much excitement in The United States, and which might, if repeated at this moment be detrimental to the good relations of the two countries, have sent further orders to the officer commanding the Cuban squadron to discontinue the search of any vessel of The United States until some arrangement, in the sense I have pointed out, shall be made by your Lordship with The United States' Government, or declined on their part.

Should the Government of The United States not think fit to adopt some mutual regulation by which the officers of both States shall be enabled to verify the nationality of a suspicious ship, without offence to its crew or its country, Her Majesty's Government will deeply regret that an opportunity has been lost to secure, honourably and for ever, the two nations from those vexatious and irritating controversies which are inevitable as long as the letter of international law is made inflexibly to override those measures which experience and common sense recommend as necessary for the security of life and property on the high seas.

I am, &c.

Lord Napier. MALMESBURY.



British officer. I added, however, that it might appear that the practice of visitation or inquiry had been exercised generally; that it had been applied indiscriminately to vessels passing through the waters known to be frequented by slave-traders, without grounds of suspicion in each instance. Should such prove to be the case, I believed the wishes of Her Majesty's Government had been exceeded; that Her Majesty's Government would not sanction or support any system of supervision over the traders of The United States in the narrow seas almost within sight of their own shores. I was aware that such a practice was altogether incompatible with the principles of maritime law held in The United States; that it would be resisted by the whole united American people; and that its continuance would involve the hazards of war between England and this country. I informed the Secretary of State that I had communicated these views to the Commander-in-chief on the West India station by despatches which would be forwarded by a special steam-vessel to their destination, and that I had submitted my opinion to the Admiral that it would be desirable to suspend the proceedings of Her Majesty's officers if they were of the nature complained of, pending the issue of definitive instructions by Her Majesty's Government.

General Cass avowed that in many cases there had been exaggeration in the accounts circulated respecting British officers, but that enough remained to prove an interference with the American flag which the Government of The United States would never submit to. He did not believe that this interference had been deliberately projected by Her Majesty's Government, or that it proceeded from any hostile or offensive policy on their part, and that he made little doubt that such a disavowal would be made as would be satisfactory to his Government. General Cass intimated his disapproval of the violent proposals offered in the Senate, and his judgment that it would not be necessary to resort to any other measures of resistance than those which had been adopted, until an answer had been received from London.

It is scarcely necessary that I should again formally submit to Her Majesty's Government an opinion which has already been conveyed in my correspondence, both with the Foreign Office and the Commander-in-chief. On mature reflection, and after conversation with a variety of persons belonging to every party, I adhere to the conviction, which might be gathered from the history of the past as well from the aspect of the present, that the Government and people of The United States will contend against the right of a maritime visitation on every sea, for every purpose and in every form.

I do not think that much anxiety will be evinced to obtain a disavowal of any doctrine on this matter which Her Majesty's

Government may speculatively entertain, but the whole nation will take up arms to prevent that doctrine being carried into execution. Some humane and zealous persons in the north, under strong impressions of the criminality of slavery, and the trade by which it is aggravated and perpetuated, may secretly entertain or timidly advocate other principles of maritime police; but those persons are powerless before the American people, and will have no part in shaping the resolutions of the Government of The United States in its relations with Great Britain.

In continuing my conversation with General Cass, I adverted to two points to which I had before called his attention, as reported in my despatch of the 19th of April last; I mean the employment of American vessels of war in controlling the Slave Trade in the Gulf, and the use of those remonstrances with the Government of Spain which are prescribed by the terms of the Treaty of 1842.

On the first head General Cass appeared to admit that the vessels recently dispatched to the Gulf had no specific instructions for the suppression of the Slave Trade, though he "saw no objection" to such instructions being given, and thought that their exertions might very properly be applied in that direction. On being pressed by me on this topic, the Secretary of State replied, that he could not assure me that any American vessels of war would be maintained on the coast of Cuba, with a view to the extinction of the Slave Trade.

With reference to the use of diplomatic remonstrance at Madrid, the Secretary of State answered, as he did before, that he presumed the representations designed by the Treaty had been made; he desired the Assistant Secretary of State, who was present, to inquire into the subject; he acknowledged the binding nature of the en-



Government might possibly find itself under the necessity of proceeding to extremities against Spain; some constraint might become unavoidable; the coast of Cuba would be the natural scene for the exercise of compulsory proceedings; and if a blockade were resorted to, he might well imagine that such a measure would be unpalateable to The United States, and embarrassing to our mutual relations. I therefore argued, that in our common interest, and for the sake of our continued good understanding, it was most desirable that the Government of The United States should assist Her Majesty's Government, both by counsel and by material aid, in the suppression of the Slave Trade in Cuba.

General Cass simply remarked, that "he had not advised us to blockade Cuba;" and he did not say anything which would in the least justify me in promising your Lordship any co-operation on the part of The United States in furthering the benevolent exertions of Her Majesty's Government. I have, &c.

The Earl of Malmesbury. NAPIER.

No. 9.—Lord Napier to the Earl of Malmesbury.—(Rec. June 28.)

My Lord, *Washington, June 13, 1858.*

In a recent conversation with General Cass, I stated my opinion that, when the late incidents in the Gulf of Mexico came to be dispassionately investigated, it would be found that the detention of shipping by Her Majesty's cruizers had frequently been prompted by the refusal of the masters of American vessels to display their colours. I added that some indications to this effect had already appeared in the newspapers, and that I had formerly, in conversation with naval officers, heard them complain that there was a dogged indisposition on the part of the merchant captains of The United States to hoist their flag when required to do so by an English man-of-war.

I then asked General Cass for an unofficial statement of his opinion as to the obligation of a trading-vessel to show her colours to the armed vessel of a foreign Power.

General Cass, speaking unofficially, replied, that he conceived that a ship-of-war had a right to demand the exhibition of colours, and in exercising that right to make the requisite signals and demonstrations. Where no national colours were exhibited there could be no offence. The vessel without colours might be a pirate or a British vessel, which the English cruizer had a right to visit.

The Assistant-Secretary of State who was present, joined in the conversation, and seemed inclined to demur to the doctrine of General Cass. He intimated that the vessel without colours should be deemed an honest vessel, unless particular suspicion lay against her, and that every vessel was not liable to be called upon to make

a declaration of nationality at the order of a foreign cruizer. The Secretary of State objected the inability in which, according to this theory, the British ship-of-war would be placed in reference to the control of vessels of its own country.

I have adverted to the same subject in conversation with the Secretary of the Navy, and with several officers of the American service. The general impression certainly appears to be that, the vessel-of-war is justified in enforcing the exhibition of a flag, but not to go any further in ascertaining whether the flag is justly assumed.

A captain of The United States' navy informed me that American merchant-vessels navigating the neighbouring waters not unfrequently manifested a disinclination to hoist a flag even at the bidding of the ships-of-war of The United States.

The conjuncture which I hazarded to General Cass is confirmed by the tenor of the inclosed letter from Commander Rodgers of The United States' steam-vessel *Waterwitch*, to the Navy Department, in which Lieutenant Pym, of Her Majesty's gun-boat *Jasper* is reported to have "admitted that in certain cases he had fired near vessels to make them show their colours."

I have, &c.

The Earl of Malmesbury. NAPIER.

(*Inclosure.*)—*Commander Rodgers, United States' Navy, to the Secretary of the Navy.*

SIR, *U.S. steamer* Waterwitch, *Key West, June* 3, 1858.

I ARRIVED here safely to-day for coal. All well on board. I leave to-morrow for Havana, where I shall find Her Britannic Majesty's steamer *Devastation*, which has brought instructions from Admiral Seymour to the cruizers upon the coast of Cuba.

Her Britannic Majesty's steam gun-boat *Jasper* came into the harbour this morning in search of the *Styx*, to deliver despatches from the Admiral. Lieutenant Pym stated to me that his instructions were printed, and were dated, he believed, in 1849; that they were, at all events, the identical instructions which he had acted upon on the coast of Africa 9 years ago. He said that he believed, or rather was sure, that no new instructions had been received from the British Government for the guidance of the vessels on the coast of Cuba. He said that the *Creole* was a slaver, and that, soon after her capture, her colours and papers both disappeared—the captain declaring that he was not entitled to American papers or colours.

He said that in another case where he had sent his quartermaster with a spyglass to ask permission to ascend the mast of the outermost vessel in the harbour of Matanzas, in order to see whether the *Styx* was in sight, the captain said, laughingly, afterwards, that

he had hoaxed a newspaper writer into the belief that he had been boarded by British fillibusters. He said that he was sure that, upon examination, he would be found to have done no wrong to the American flag.

He admitted that, in certain cases, he had fired near vessels, to make them show their colours, and asked me whether he had been guilty of wrong in so doing. To this I said that I had no official opinion, but that I thought not.

However the law may be in this case, it is held, so far as I know the usuage of the sea-service, itself as a law, that men-of-war should show their flags to each other; and it is the general opinion of naval men that merchant-vessels, upon neglect or refusal to do so, may be compelled to it without trenching upon their rights.

Lieutenant Pym seemed surprised at the light in which the acts of the British cruizers are regarded by the Government of The United States. I have, &c.

Hon. I. Toucey, Secretary of the Navy. JOHN RODGERS.

No. 10.—*Lord Napier to the Earl of Malmesbury.*—(*Rec. July* 5.)

(Extract.) *Washington, June* 21, 1858.

I WAITED upon General Cass this forenoon, when he hastened to inform me that he had just received very gratifying intelligence from Mr. Dallas. He then showed me a minute drawn up by your Lordship, embodying the substance, or the conclusions, of a long conversation which you had held with the American Minister on the 8th instant, to the effect that Her Majesty's Government adhered to the general principles of maritime law asserted by General Cass; that they did not defend the recent actions of British officers, if correctly reported; and that, pending the negotiation of some means for the verification of the nationality of vessels, orders had been issued for the discontinuance of the search of American ships.

General Cass also permitted me to read a portion of the despatch accompanying this document, in which Mr. Dallas congratulated himself and his Government on what he deemed to be a change in the sentiments of Her Majesty's Government on the question under discussion since that discussion was opened in London.

General Cass expressed his satisfaction with the tenor of your Lordship's remarks to Mr. Dallas, and his confidence that the questions at issue would be amicably adjusted.

I did not fail to call the attention of General Cass to the exercise of the right of visitation or inquiry by Commander McBlair, of The United States' ship *Dale*, in the case of the French brig *Merle*, as reported in the documents presented to the Senate.

The Secretary of State admitted that American officers might

occasionally practise what he termed "Quarter-deck Law," but the right was not claimed by The United States, nor would the conduct of an officer acting thus be approved.

The Earl of Malmesbury. NAPIER.

No. 11.—*Lord Napier to the Earl of Malmesbury.*—(*Rec. July* 11.)

My Lord, *Washington, June* 24, 1858.

In conformity with your Lordship's orders, I called upon General Cass this forenoon, and read aloud to him your Lordship's despatch of the 11th instant, relative to the recent detention of American shipping in the Gulf of Mexico, and the necessity of some expedient being devised by which the nationality of vessels may be ascertained in a manner efficient, and yet not offensive.

I also placed a copy of this communication in the hands of the Secretary of State.

General Cass stated to me in reply, that the course taken by Her Majesty's Government was worthy of a great and generous country; of one whose unquestioned power and promptitude to repel aggression was accompanied by a disposition to recognize an error, and redress an injury, when inconsiderately committed. He assured me, emphatically, that after the satisfactory declarations made by your Lordship, both in the minute transmitted by Mr. Dallas, and in the despatch of which I was then the channel, the Government of The United States would give their attentive consideration to any proposal which Her Majesty's Government might suggest for the verification of the nationality of vessels, and their right to the flag which they displayed.

The method of proceeding alluded to in the minute of conversation above-mentioned, as having been sanctioned by France, was not, however, explained with such distinctness as to enable the American Cabinet to pass an opinion on its merits.

I remarked to General Cass that Her Majesty's Government preferred that the Government of The United States should take the initiative, and communicate their own views on this subject.

The Secretary of State answered, that on receiving his last intelligence from Mr. Dallas, he had addressed to that Minister a despatch, in which he had expressed his desire to have a more accurate knowledge of the plan adopted in conjunction with France, and that the suggestion for a scheme adapted to counteract the evil complained of, should originate with Her Majesty's Government.

It is obvious that the Government of The United States must be reluctant to move in a question which involves many difficulties, and which is particularly embarrassing here on account of the peculiar sensitiveness of the American people in regard to every form of maritime supervision. The Secretary of State would naturally be

reluctant to face the responsibility of starting a proposal which might become the ground of opposition in Congress, and of attacks by the press.

A measure, offered with the united authority of England and France, would not only be more agreeable to the American Cabinet, but more acceptable to the Legislature, as it would have no direct connection with the party in power.

I think, therefore, that with a view to an early settlement of the matter at issue, it would be desirable for Her Majesty's Government to mature some well-considered and practical project with the Imperial Government, and then recommend it to the adoption of the Cabinet of Washington.

I have, &c.

The Earl of Malmesbury. NAPIER.

No. 12.—*General Cass to Mr. Dallas.*—(*Communicated to the Earl of Malmesbury by Mr. Dallas, July* 19.)

SIR, *Washington, June* 30, 1858.

YOUR despatches Nos. 104, 106, and 108, together with the accompanying copies of the papers referred to, have been received at this department, and have been laid before the President; and I am gratified in being able to convey to you the assurance that he fully approves your correspondence with Lord Malmesbury on the important subject committed to you.

As to the aggressions upon the vessels of The United States by British armed cruizers, which led to this correspondence, and which you have made known to Her Britannic Majesty's Government, it is not necessary that I should enter into any further consideration of them at this time. When the facts shall have been correctly ascertained, and duly considered, I do not doubt but that the British Government will promptly redress any injuries which may have been inflicted, and will mark with its displeasure those officers whose conduct has given just cause of offence to The United States.

And in addition to the satisfactory assurances which your correspondence contains of the views of the British Government, it gives me pleasure to be able to inform you that this Department, by direction of Lord Malmesbury, has been furnished by Lord Napier with the copy of a letter addressed to his Lordship by Lord Malmesbury, and dated the 11th instant, in which the same purposes are avowed, and the same principles recognized, as reported in your despatch of the 8th instant. A copy of this document is herewith inclosed.

The President desires you would express to Lord Malmesbury his gratification at this satisfactory termination of the controversy which has given so much trouble to our respective Governments concerning the claim of a right in behalf of a British cruizer, in

time of peace, to search or visit American merchant-vessels upon the ocean. Her Britannic Majesty's Government has disclaimed this pretension, and recognized the principles of international law laid down in the letter from this Department to Lord Napier, of the 10th of April last, and which has been maintained by distinguished British statesmen, and especially by that eminent jurist, Lord Stowell, who said emphatically, while deciding a case judicially before him, that "no nation can exercise a right of visitation and search upon the common and unappropriated parts of the ocean, except from the belligerent claim."

The President is aware of the abuses to which the fraudulent assumption of the flag of one Power by the citizens or subjects of another, may give rise, and he deeply regrets that the flag of The United States has ever been prostituted to unworthy purposes by such a reprehensible proceeding. At the same time he entertains a strong conviction that the occasional abuse of the flag of any nation is an evil far less to be deprecated than would be the establishment of a pretension like this, which is incompatible with the freedom of the seas. But while avowing this conviction, he instructs me to say that The United States are not less solicitous than Great Britain that a remedy should be found for this false employment of national colours, to which Lord Malmesbury refers in just terms of condemnation. And the President, though not prepared to make any suggestion upon the subject, is yet ready to receive any propositions which the British Government may feel disposed to make, and to consider them with an earnest hope that the object may be safely and satisfactorily attained.

But, while communicating to his Lordship these favourable sentiments of the President, it is due to the occasion to say that there are grave difficulties in the way of reconciling any kind of



no way commensurate with the loss of life and property it has occasioned. The employment of this squadron has, however, prevented such exertions from being made in other quarters of the world for the repression of this traffic as would otherwise have been undertaken, and which would, probably, have proved far more effectual. And the President is under the impression that, if this squadron were withdrawn from the African coast, the vessels composing it might be ordered upon service elsewhere to much better advantage in the suppression of this criminal employment; and he is seriously considering the subject, with a view to determine whether it is not advisable to give the year's notice provided for in the Treaty of 1842, with a view to the abrogation of Article VIII, which creates an obligation on the part of our respective Governments to maintain squadrons of repression in the African seas.

You are instructed to read this despatch to Lord Malmesbury, and, should he desire it, you may leave a copy with him.

I am, &c.

G. M. Dallas, Esq. LEW. CASS.

No. 13.—*The Earl of Malmesbury to Lord Napier.*

My Lord, *Foreign Office, July* 23, 1858.

On the 19th instant Mr. Dallas called on me, and read to me a note, of which I inclose a copy.

I heard with great satisfaction that the course adopted by Her Majesty's Government in respect to the complaints against our cruizers, and the general question of the right of search and visit, had convinced The United States' Government that Great Britain is not desirous of asserting or enjoying any public privileges at the expense of the interest and honour of other nations.

I also heard with pleasure that General Cass was prepared and willing to receive and consider any suggestions on the part of Her Majesty's Government, which might secure a proper verification of the flag assumed by merchant-vessels, without interrupting commerce, or wounding the national susceptibilities of maritime States.

It is a question so difficult, and is of such a delicate, though practical character, that Her Majesty's Government will not offer such suggestions hastily, nor without having first consulted the feelings and opinions of commercial countries, and of men experienced in the trade and navigation of the ocean.

When convinced that they can lay before The United States a proposition of the nature which they desire to obtain, it will be submitted to The United States' Government.

I am, &c.

Lord Napier. MALMESBURY.

No. 14.—The Earl of Malmesbury to Lord Napier.

MY LORD, *Foreign Office, January* 14, 1859.

WITH reference to your Lordship's despatch of the 24th of June last, stating that the Government of The United States would give their attentive consideration to any proposal which Her Majesty's Government might suggest for the verification of the nationality of merchant-vessels, and their right to the flag which they displayed I have to acquaint you that Her Majesty's Government invited the French Government to come to an understanding with them as to an agreement, to be made in the first instance between themselves, for establishing an identical code of orders in the French and British navies, which should enable the officers of ships of war to verify the nationality of a suspicious vessel, and which, when so established, might be subsequently submitted for adoption by The United States.

I now transmit to your Lordship a copy of a despatch from Count Walewski, which has been communicated to me by the Duke of Malakoff, inclosing a memorandum stating the views of the French Government upon this subject.

Although Her Majesty's Government consider the proposals of the French Government for settling the question of the right of visit as far from effective, and not calculated to relieve the commanders of ships of war from a most onerous responsibility, they nevertheless consider it to be so important that an identical Code of Instructions, on this subject, should be given to their cruizers by the Governments of all maritime Powers, that they do not hesitate to invite the Government of The United States to acquiesce in the proposals made by the French Government, and to give orders to the Commanders of their Naval Forces in strict accordance therewith.

You will, therefore, make the necessary communication to

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résulteraient se trouvaient unanimement admises, on n'aurait plus, je crois, à appréhender les abus qui sont toujours possibles en l'état de choses, ni, par suite, les conflits qui aujourd'hui peuvent inopinément troubler les bonnes relations des deux Etats. Je vous prie, M. le Maréchal, de vouloir bien entretenir Lord Malmesbury de notre manière de voir, et de me faire savoir si le Gouvernement de Sa Majesté Britannique est disposé à l'accueillir.

Je me propose d'écrire dans le même sens à Washington, afin d'arriver à un accord complet entre les 3 Gouvernements sur la solution de cette question. Agréez, &c.

Le Duc de Malakoff. A. WALEWSKI.

(*Inclosure* 2.)—*Memorandum.*

En vertu de l'immunité de pavillons, tout bâtiment marchand navigant en pleine mer est hors de toute juridiction étrangère. Un navire de guerre ne peut donc visiter, détenir, arrêter, et saisir que les bâtiments de commerce qu'il reconnait avoir la même nationalité que lui.

Le pavillon étant, *prima facie*, le signe distinctif de la nationalité d'un navire, et par conséquent la constatation de la juridiction dont il relève, il est naturel qu'un bâtiment marchand, lorsqu'il se trouve en pleine mer en vue d'un navire de guerre, hisse son pavillon pour attester sa nationalité : dès que le bâtiment de guerre s'est fait reconnaître en arborant ses couleurs, le bâtiment marchand doit donc également arborer les siennes. S'il s'y refuse, il est admis qu'on puisse le semoncer par un premier coup de canon à poudre, et s'il reste sans effet, par un second coup de canon à boulet, mais dirigé de manière à ne pas l'atteindre.

Dès qu'en arborant son pavillon, le bâtiment marchand a établi sa nationalité, le navire de guerre étranger ne doit plus prétendre à aucune action sur lui. Tout au plus, peut-il dans un certain cas user du droit de la faire raisonner, c'est-à-dire, lui demander de répondre aux questions adressées par porte-voix, mais sans contrarier sa route.

Lorsque cependant la présomption de nationalité résultant du pavillon arboré par un navire marchand se trouve mise sérieusement en doute par des informations ou des indices de nature à faire croire que le bâtiment n'appartient pas à la nation dont il a pris les couleurs, le navire de guerre étranger peut recourir à une vérification de la nationalité assumée.

Une chaloupe sera détachée à cet effet vers le bâtiment suspect qu'on aura hélé préalablement pour l'en avertir. La vérification consistera dans l'examen des papiers constatant la nationalité du bâtiment. Il ne pourra être réclamé que l'exhibition de ces pièces. Tout enquête sur la nature du chargement, sur les opérations com-

merciales, sur un autre fait, en un mot, que celui de la nationalité, toute recherche, toute visite quelconque, sont absolument interdites. L'officier chargé de la vérification devra procéder avec une grande discrétion et avec tous les égards possibles, et quitter le navire aussitôt la vérification effectuée, en offrant de spécifier sur les papiers du bord le fait, les circonstances de la vérification, et les motifs qui l'ont déterminé à y procéder.

Hors le cas de suspicion légitime de fraude, il ne devra, d'ailleurs, jamais être nécessaire que le commandant d'un navire de guerre étranger ait à monter ou à envoyer à bord d'un bâtiment de commerce, tant sont nombreux les indices qui, abstraction faite des couleurs, révèlent aux yeux des marins la nationalité d'un bâtiment.

Il en est à toute hypothèse bien entendue que le navire de guerre qui se décide à aborder un bâtiment de commerce étranger le fait toujours à ses risques et périls, et demeure responsable de toutes les conséquences qui peuvent résulter de son acte.

Le commandant du navire de guerre étranger qui aura eu recours à cette mesure, devra dans tous les cas en faire l'objet d'un rapport à son Gouvernement, et l'informer des motifs évidents qui l'ont fait agir. Communication de ce rapport et des raisons qui ont provoqué la vérification sera donnée officiellement au Gouvernement auquel appartiendra le navire qui aura été soumis à l'enquête du pavillon.

Toutes les fois que celle-ci ne sera pas justifiée par des raisons évidentes, ou n'aura pas été faite d'une manière convenable, il y aura lieu à indemnité.

No. 15.—*The Earl of Malmesbury to Lord Napier.*

(Extract.) *Foreign Office, January* 14, 1859.

WITH reference to my despatch of this day's date, I inclose for

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have expressed for an alteration with reference to this important point in a more favourable light; but should your Lordship have any opportunity of urging with success upon the Government of The United States the necessity of so far altering the instructions to be given to naval officers, as to secure that in every case a merchant-ship should be compelled, by force if necessary, to hoist the colours of the nation to which she claims to belong, your Lordship will not fail to do so.

Lord Napier. MALMESBURY.

(*Inclosure* 1.)—*The Earl of Malmesbury to Earl Cowley.*

MY LORD, *Foreign Office, October* 20, 1858.

IN my despatch of the 18th ultimo, I informed your Excellency that I was in communication with the Lords Commissioners of the Admiralty upon the proposal for the settlement of the question of the right of visit contained in Count Walewski's despatch to the Duke of Malakoff of the 4th ultimo.

I have now to acquaint your Excellency that the Lords of the Admiralty have stated to me that they consider that unless some additions are made to that proposal, or some explanations afforded as to its meaning, great difficulties and misunderstandings may arise as to the regulations to be founded thereupon.

The right of a man-of-war to call upon a merchant-vessel at sea to declare her nationality by hoisting her true flag, is laid down in the French proposition, and the means, up to a certain point, of compelling compliance with a summons, are also shown; but the French proposition is silent as to what is to be done by the man-of-war if a vessel does not display her flag after a gun with shot in it has been fired so as not to strike her.

Is it to be assumed, as a matter of course, that the man-of-war may fire her next shot so as to strike the merchant-vessel, if her two summonses be disregarded?

It appears to the Lords of the Admiralty that this point should be cleared up before the proposition is accepted as the basis of an agreement, or it may otherwise be found that the first step towards the verification of the nationality of a merchant-vessel could not be taken.

The regulations to be framed upon these proposals are intended, not only for the coast of Africa, but for the high seas everywhere, and not more to assist in putting down the Slave Trade on the coast of Africa, than piracy wherever it prevails.

When the flag of the merchant-vessel has once been hoisted, the man-of-war may hail her, but may not interrupt her course (and here the difficulty begins), unless the nationality of the vessel is open to serious doubt from information received, or from other

indications which give occasion to suppose that the vessel does not belong to the nation whose colours she has assumed.

The proposition goes on to state how the vessel of war is to verify the flag in cases of "serious doubt;" and here the Lords of the Admiralty notice a grave omission in the proposition.

It says: "A boat shall be detached towards the suspected vessel, which shall have been previously hailed, to give her notice."

What is to be done if the merchant-vessel stands on her course, so as to prevent the boat from coming alongside; or if the men-of-war cannot get near enough to hail, and acquaint the vessel with her intention to send on board of her, from want of speed, or stress of weather, or other cause?

May the man-of-war give her the two warnings, as prescribed above, to make her show her flag, and then fire into her, if she does not heave-to and allow the boat to come alongside?

The Lords of the Admiralty consider that this point should be stated more clearly, in order that there may be no doubt as to the nature of the regulations which would be proposed for subsequent agreement.

When once on board, the verification is to consist in the examination of the papers, and the papers alone. No question may be asked as to the nature of cargo, nor any kind of examination made as to crew, passengers, or the nature of commerce in which the vessel is engaged.

At present a British officer, before proceeding to search a vessel, is ordered to gain every information which can be obtained by inquiries courteously made.

Such inquiries would be as much a breach of this proposed agreement as an actual search. In fact it appears to the Lords of the Admiralty, that a false flag, and a forged set of papers, would confer absolute immunity to any vessel.

The proposition goes on to state, that there are few occasions on which it is necessary to board a vessel in order to verify her nationality, there being so many points which show to a sailor's eye the nationality of a vessel. The Lords of the Admiralty observe that, though this is undoubtedly true, the signs which show the ownership of a vessel are not equally clear.

A vessel seen may hoist a French flag, and a sailor's eye may at once perceive that the ship is French in origin, but the vessel may have been sold and be owned by a merchant of the Havana, and have a slave cargo on board. None of these facts can be ascertained except by a close examination of the papers, the mustering of the crew and passengers, to see if they agree with the list; and the ownership and cargo, and other particulars of the voyage, can only be ascertained by a careful questioning of the master and other persons found on board.

The Lords of the Admiralty quite agree with the French proposition, that in every case in which a vessel is boarded by a man-of-war, it must be done at the risk and on the responsibility of the officer, if it is done wantonly and without sufficient cause. Their Lordships see no objection to the proposal that, in every case of a visit made, a report shall be made by the officer to his Government in the manner there pointed out; and that the Government to which the vessel visited belongs, shall also be made acquainted with the fact and the reason of the visit, and that in every case when the visit shall not have been justified by evident reasons, or improperly performed, a claim proportioned to the damage sustained may be preferred.

The Lords of the Admiralty have further called my attention to the increased difficulty with which officers cruizing for the suppression of the Slave Trade on the coast of Africa will, in their opinion, have to contend, unless the proposition made by the French Government is amended, and made more complete in those points on which their Lordships have indicated its present deficiencies.

Unless this be done, they express their decided opinion that the general Law of Nations, admitted by General Cass, and quoted by me in my despatch to your Excellency, dated the 20th of July, gives them a more effective power to check the Slave Trade than a code of regulations strictly framed on the French proposals, at present suggested, would afford.

I have to instruct your Excellency to communicate to Count Walewski the above views of the Lords Commissioners of the Admiralty upon the proposal contained in his Excellency's despatch to the Duke of Malakoff of the 4th ultimo, and to invite his Excellency to favour Her Majesty's Government, at his earliest convenience, with any observations which the French Government may have to offer in reply; as Her Majesty's Government are anxious to make, with as little delay as possible, a communication to the Governments of other maritime States upon this subject.

It appears to Her Majesty's Government that the most important point to determine in the interest of general safety and order on the high seas is, that a man-of-war shall have a right to oblige a merchant-vessel to show her colours when challenged to do so, and that if the latter should refuse, force may be employed. Without this first proceeding being acknowledged and established, nothing can be done.

I am, &c.

Earl Cowley. MALMESBURY.

(*Inclosure 2.*)—*The Earl of Malmesbury to Earl Cowley.*

MY LORD, *Foreign Office, October 23, 1858.*

I HAVE to acquaint your Excellency that since my despatch of the 20th instant was written, I have received from the law officers

of the Crown their opinion upon the proposal for settling the question of the right of visit contained in the despatch addressed to the Duke of Malakoff by Count Walewski, on the 4th ultimo.

I have to refer your Excellency to that part of my despatch of the 20th of July, in which I submitted two questions for the consideration of the French Government, namely:—1st. How far a ship-of-war, which is assumed to have a right to make a merchant-vessel show her colours, and so declare her nationality, has a power to enforce that right? and, 2ndly, when a merchant-ship displays her colours, how is a ship of war to verify the nationality claimed, should her honesty be suspected?

I have to state to your Excellency, that it appears to Her Majesty's Government that the first question has not, in effect, received a sufficient answer from Count Walewski. His Excellency, in his despatch to the Duke of Malakoff, seems to assume that a merchant-vessel will always show her colours on being summoned so to do by a ship of war; an assumption upon which no reliance can be placed in practice.

Her Majesty's Government are of opinion that if a merchant-vessel, after being summoned and warned in the usual manner by a man-of-war (first hoisting her colours and firing a blank cartridge, and next by firing a shot over or a-head of the chase), still omits either to show her colours, or to heave-to, this circumstance would be of itself, as a general rule, of so suspicious an aspect as to justify the man-of-war, after every other measure had been exhausted, in resorting to force, as by firing shot at the chase in the last resort.

In case of the chase heaving-to, her merely not showing any colours would, of course, be immaterial, except as authorizing her being boarded by the cruizer.

With respect to the second question, Her Majesty's Government



papers alone should justify capture, but they conceive that, on the other hand, the mere production of papers should not be held absolutely conclusive.

Her Majesty's Government assume that in the event of the arrangement suggested being carried out, lists and copies, carefully corrected from time to time, of the legal "ship's papers," would be transmitted between the Powers entering into the proposed arrangement.

Her Majesty's Government would further suggest that naval officers should be required to enter in their log-books before boarding vessels, a full record of the grounds of suspicion upon which they act.

Her Majesty's Government are also of opinion that a rule should be laid down with regard to the manner in which the question of the indemnity for the detention of a vessel should be decided, and that the best mode of settling this point would be by submitting such cases to a mixed commission or board, composed of two arbitrators and an umpire, empowered to decide finally, and without appeal, after hearing one counsel or agent for each Government, and to cause payment to be made forthwith.

I have to instruct your Excellency to communicate to Count Walewski the above views and suggestions of Her Majesty's Government, with regard to the proposal contained in his Excellency's despatch to the Duke of Malakoff, and to request him to favour Her Majesty's Government at his earliest convenience with the observations which the French Government may have to offer in reply.

I am, &c.

Earl Cowley. MALMESBURY.

(*Inclosure* 3.)—*Earl Cowley to the Earl of Malmesbury.*

(Extract.) *Paris, December* 13, 1858.

COUNT WALEWSKI has placed in my hands the *note verbale* of which the inclosed is a copy, as the answer of the Imperial Government to the memorandum which, under your Lordship's directions, I communicated to him some time back, containing the observations of Her Majesty's Government upon the French proposal for regulating the question of the right of visit.

Your Lordship will see that the Imperial Government is unwilling to adopt the modifications to their proposal suggested by Her Majesty's Government.

I regret that I was prevented reading this document in Count Walewski's presence, for had I known its contents before I left his Excellency I should certainly have observed to him that the well-known intention of Her Majesty's Government, in desiring to regulate the right of visit, was not so much the suppression of piracy,

which the French *note verbale* justly described to be all but annihilated, as the eradication of the Slave Trade. It was for this latter purpose that they sought, not as the *note verbale* seemed to indicate, concessions to the British flag, but a general understanding among the maritime Powers of the world, for the purpose of regulating the manner of verifying a ship's nationality, and preventing the abuse of the flag of any nation to cover a traffic which all nations repudiated.

I have already remarked to Count Walewski, in former conversations, that there would be no risk of a merchantman refusing to show her colours when called upon to do so by a ship of war, if the obligation of so doing was established by some international act.

I should have repeated this remark on the present occasion, and I should have added that I knew nothing more likely to encourage both piracy and the Slave Trade, under an assumed French flag, than the knowledge that the French Government did not admit that the display of a merchantman's colours at the demand of a ship of war was compulsory.

Although it is still my intention to make these remarks to Count Walewski on the first favourable opportunity, I am desirous that your Lordship should at once know that I should not have left a document of the nature of that inclosed without an answer, had I perused it in Count Walewski's presence.

The Earl of Malmesbury. COWLEY.

(*Inclosure* 4.)—*Memorandum.*

Paris, le 10 *Décembre*, 1858.

Les observations présentées dans les Memorandums du Foreign Office et de l'Amirauté paraissent, après un examen attentif, tendre à modifier profondément le mode d'enquête concernant la nationalité des navires tel que le concevait le Gouvernement de l'Empereur

prendre Conseil des circonstances, en n'oubliant jamais qu'en temps de paix l'usage de la force n'est permis qu'à la dernière extrémité, et en se rappelant qu'ils sont responsables de leurs procédés et de leurs conséquences.

C'est dans le même sens qu'on répondra à la question analogue posée par les memorandums Anglais pour l'hypothèse où un navire qu'on veut faire raisonner en envoyant une embarcation le long du bord, ne tiendrait nul compte de l'avertissement préalable et continuerait obstinément sa route. Le droit d'enquête du pavillon n'est pas, en temps de paix, un droit parfait emportant avec lui la faculté de contraindre; il ne doit dès-lors pouvoir être exercé que sous la condition d'une très grande responsabilité. Il faut que les capitaines des navires de guerre qui en usent, sachent qu'ils agissent toujours à leurs risques et périls, et n'aient pas à invoquer, pour justifier leur conduite, d'autre principe que ce principe du droit des gens en vertu duquel la marine militaire peut, sur le soupçon légitime de piraterie, vérifier la nationalité des navires marchands.

Quant à la latitude que les memorandums Anglais désireraient qu'on laissât aux commandants de pouvoir, dans certaines circonstances, faire procéder à l'enquête du pavillon autrement que par l'exhibition du rôle d'équipage, et par celle des autres pièces destinées à faire preuve de la nationalité, on ne croit pas qu'elle puisse être concédée. Les instructions du Gouvernement Britannique n'ont certainement jamais manqué de recommander à ses croiseurs toute la réserve et la modération possibles en matière de vérification de pavillon. D'où vient cependant qu'il s'est produit à cette occasion tant de faits qui ont obligé le Gouvernement Français à réclamer auprès du Gouvernement de la Reine? C'est que les commandants restant jusqu'ici juges des preuves qu'ils avaient à réclamer d'un bâtiment marchand à l'appui de sa nationalité apparente, ont cru trop souvent pouvoir formuler des exigences qui transformaient leur vérification en acte de visite. Or, puisqu'on a pour but en cherchant à se mettre d'accord sur une mode déterminée d'enquête de prévenir ces regrettables méprises de la part des officiers qui procédent à la vérification, c'est surtout en ce qui regarde la preuve de la nationalité qu'il importe de tracer une règle dont ils ne puissent pas s'écarter au gré de leurs appréciations personnelles. Aussi, le Gouvernement de l'Empereur conserve-t-il la conviction qu'on ne saurait à cet égard aller plus loin qu'il ne l'a suggéré dans sa note antérieure.

Quelle est d'ailleurs, en résumé, la raison qui légitime le maintien de la faculté d'enquête de pavillon; c'est le besoin d'assurer la police des mers au point de vue de la piraterie. Or, la piraterie a si complètement disparu sur les principales mers du globe que la faculté d'enquête, si elle est renfermée dans ses véritables limites,

ne saurait désormais trouver que très rarement l'occasion de s'exercer.

(*Inclosure* 5.)—*Earl Cowley to the Earl of Malmesbury.*

MY LORD, *Paris, December* 15, 1858.

WITH reference to my despatch of the 13th instant, I have the honour to state that since writing it I have had an opportunity of speaking to Count Walewski on the subject of the *note verbale* relating to the right of visit, a copy of which was inclosed therein.

I told his Excellency, as I informed your Lordship I should do, that the object of Her Majesty's Government in desiring to regulate the question of the right of visit, was to prevent the abuse of the flag of any nation to cover the Slave Trade, and I added that I could not understand the difficulties raised by the French Government to carry out the provisions which they had themselves suggested, with a view of obtaining that desirable end.

Count Walewski replied that it was one thing to admit a right, and another thing to say how that right was to be exercised. The French Government did not deny that a suspected ship, but a suspected ship only, might be obliged to show her colours by a ship of war; but the manner in which the obligation was to be enforced must, his Excellency argued, be left to the discretion and responsibility of the officer commanding the ship of war. It would be impossible for the French Government to admit in general terms that a merchant-ship refusing to show her colours might be fired into. It would be giving a power to naval officers that might be abused, and might, consequently, lead to the most deplorable consequences.

I have, &c.

The Earl of Malmesbury. COWLEY.



in, must necessarily be to render almost nugatory any attempt to secure a just and effectual police of the seas.

The arguments, indeed, now used by the French Government tend to show that, in their opinion, such police is uncalled for. They allege that piracy is extinct; that therefore, in fact, no occasion exists for verifying the flag of a merchant-ship; and they desire to throw upon naval officers the whole responsibility of executing orders given to them by their respective Governments.

It must surely be impossible for the French Government to have come to this conclusion without overlooking the worst form of piracy which is now openly carried on to an unlimited extent by traders in negro slaves. It must be wholly impossible for France, as one of the first civilized nations of the world to view otherwise than with horror the revolting scenes to which that traffic leads; but if facts have not hitherto been brought to the knowledge of the French Government, I have to instruct your Excellency to communicate to Count Walewski the accompanying copies of a letter from Commodore Wise, and of a note which I have felt it to be my imperative duty to address to The United States Minister at this Court, proving, beyond doubt, the piratical use of the American flag, and its prostitution to the foulest purposes.

I said to Mr. Dallas, as your Excellency will say to Count Walewski, that the circumstances detailed by Commodore Wise disclose facts calculated to move the most prejudiced feelings in regard to the question of the right of visit. The enlightened mind of the Emperor of the French cannot fail to see the evils thus engendered by the abuse of a legitimate flag; and I am willing to believe that His Majesty will not refuse to cause this question to be reconsidered, with a view to framing instructions which may serve not only for the guidance of naval officers of all countries in effectually verifying merchant-ships, but which may relieve those officers from a responsibility which ought not properly to fall on them, and which it would be ungenerous in any Government to throw upon their servants on occasions when they strictly carry out the orders which they have received.

Her Majesty's Government will await the reply which your Excellency may receive from the French Government before they make any further communication to other Governments on this subject.

Your Excellency will read this despatch to Count Walewski, and place a copy of it in his Excellency's hands.

I am, &c.

Earl Cowley. MALMESBURY.

(*Inclosure 7.*)—*The Earl of Malmesbury to Mr. Dallas.*

SIR, *Foreign Office, December* 14, 1858.

THE question of the use of the American flag for purposes connected with the Slave Trade has repeatedly led to communications between Her Majesty's Government and that of The United States.

Her Majesty's Government, however deeply they may have felt the sacred obligations which have led this country to take so earnest a part in endeavouring to suppress this horrible traffic, have equally felt that they were bound to regard the just rights of other nations, and to abstain, unless permitted by Treaty, from interfering authoritatively with suspected vessels provided with legitimate papers, and hoisting corresponding national flags.

The communication which I had the honour to make to you on the 8th of June last, will have proved to your Government that the views above expressed have been acted upon in all sincerity; but it is with the deepest pain that I have to call your attention to facts which disclose the advantage taken of the admission by Great Britain of the international rights of other countries.

The accompanying extracts of a letter from Commodore Wise, the senior British naval officer on the West Coast of Africa, detail circumstances calculated to move the most prejudiced feelings in regard to the question of the right of visit, and to urge the most decided measures for the suppression of proceedings which must be held to be equivalent to the grossest acts of piracy.

Her Majesty's Government cannot for a moment doubt that, equally with themselves, the Government of The United States will view with horror the prostitution of the American flag to such vile purposes.

They must believe that the Government of The United States

[redacted]

I earnestly entreat you, Sir, to call the most serious attention of your Government to these considerations.

I address you in the full conviction that the spirit in which I make this communication will not be misunderstood; and that it may be calculated to induce a kindred nation to act, not merely in accordance with Treaty engagements, but with vigour and determination, and side by side with Great Britain, in vindication of the imperative rights of humanity. I am, &c.

G. M. Dallas, Esq. MALMESBURY.

(*Inclosure* 8.)—*Commodore Wise to the Secretary to the Admiralty.*

(Extract.) Vesuvius, *off Lagos, October* 28, 1858.

In my letter of the 26th of August last, I had the honour of bringing before their Lordships' notice two most glaring instances of the prostitution of the American flag, particularly in the case of the *Ellen*, of New York, boarded by Commander Truscott, of the *Heron*, when a slave-deck and other fittings for the Slave Trade were found on board; but, as her papers clearly showed her right to the flag of The United States, she was not further interfered with.

It is now my duty to report that the *Ellen*, a few days later, ascended the Congo, when she was visited by Commander Bowden, of the *Medusa*, who ascertained that her papers were correct. She subsequently descended that river, and, with her cargo of slaves on board, cooped up and dying under close-locked hatches, the *Ellen* of New York, under the American flag, boldly passed Her Majesty's ship *Medusa*.

When the *Ellen* was visited, on passing, the stench sufficiently indicated that numerous human wretches were stowed below, and the reports from Punta da Lenha confirmed the opinion, but further examination was strictly forbidden; and, as the right of the *Ellen* to the flag of America had been proved on two occasions, she was permitted to sail, without molestation, with her rich cargo of death, disease, and misery.

Nor is the *Ellen* a solitary instance: a few days previously, the American yacht *Wanderer* ascended the river, laid her slave-deck, and proceeded to cruize in the offing till her slaves were collected, and is by this, probably, half-way to Cuba.

The case of the *Venus* has been reported. Similar cases are frequently occurring.

On the south coast slaves are procurable in thousands; the natives are selling their own children, and the traffic in slaves is rapidly destroying legal trade.

These ill effects are produced by the shameful prostitution of the American flag, for under that ensign alone is the Slave Trade now conducted.

From the master of the *Rufus Soulè*, captured by Her Majesty's ship *Viper*, on the 11th October, when about to ship at Banda Point, some interesting information was obtained, the chief of which was, that the *Rufus Soulè* was, to all intents and purposes, a Spanish ship, her real captain and crew were Spanish, the nominal captain was an American, as was also another man, who died from the ill-treatment he received from the Spanish crew.

The American captain, by his own confession, was merely a tool in the hands of the Spaniards to carry out the farce of her being a legal American trader. That her registry was correct was proved on two occasions when boarded by the *Viper*.

The master of the *Rufus Soulè* repeatedly stated that her registry was correct, but voluntarily destroyed the ship's papers, and surrendered the vessel as without nationality, to escape assassination by the Spaniards; for to use his own words, "from the time he was out of Matanzas, in Cuba, his life was not worth 50 cents."

I avail myself of this opportunity to furnish you with a list, for their Lordships' information, of slavers which are said to have sailed from the coast during the year 1857, and to the latest dates; my informants are tolerably trustworthy.

Their Lordships will observe that out of the 23 vessels said to have escaped, 11 were repeatedly visited by Her Majesty's cruizers, but though known to be slavers, they were necessarily left unmolested, through their being *bonâ fide* American vessels. Had we a Treaty with The United States, every one of these vessels would have been captured, and if the right of detaining American slavers to hand them over to their own cruizers was acknowledged, I have no hesitation in saying that the Slave Trade would be entirely suppressed in three years. On the other hand, if the present system is permitted much longer, I feel convinced that every pirate in the universe possessing the requisite means will, under the protection of the American flag, openly ship their slaves in sight of a British cruizer, knowing that we have no legal right to molest them in any way.

Last year slavers were (in the majority of cases) captured through their captains foregoing the protection of the American flag; but now American slavers are arriving and sailing with almost as much impunity as if they were engaged in legal trade.

In the coming year I feel convinced that the most vigorous efforts will be made by the trans-Atlantic slave-dealers, and if they extend their enterprise to the Bights of Benin and Biaffra, farewell to the remunerative and rapidly increasing trade which is now carried on on that coast. The above are painful truths, but must necessarily be disclosed.

The Secretary to the Admiralty. CHAS. WISE.

(Inclosure 9.)—Information of Full Slavers escaped in 1857, and to September 1858.

1857.

Place where Shipped.	Name of Slaver.	No. of Slaves.	Remarks.
South Coast	Brigantine, W. D. Adams ...	600	Repeatedly visited by Her Majesty's cruizers.
Ditto.	Brig, R. B. Lawton	600	
Ditto.	Brig. Nancy	600	Ditto.
Snake's Head ...	Brig, Putnam	600	
Ditto.	Barque, Pays	700	Taken in Cuba.
Praya dos Pescadores	Brigantine, Crimea	700	Repeatedly visited by Her Majesty's cruizers.
Ditto.	Brig, Telegraph	600	Ditto.
Loandano	Barque, Petrel...	650	Taken in Cuba.
Kilboo	Barque, Spirit of '76	700	Ditto.
Lounge	A Spanish brig, qy. the Frank	550	
Agbwey	Barque, Vesta	480	Repeatedly visited by Her Majesty's cruizers.
Whydah	Schooner, Jas. Buchanan ...	300	Ditto.
1858.			
Northward of Mayumba	Schooner, Merchant	600	In January visited by Her Majesty's ship Conflict.
Longabonda	Brig Spanish name unknown, Senor Musquito, master	800	Escaped in March.
Banda Point	Brig, Telegraph	700	Escaped in June.
Kilbongo	Brigantine, Wm. Montague ...	500	In June two vessels shipped the number stated, supposed to be the vessels named.
Ditto.	Schooner, Blooming Youth ...	400	
Ditto.	Ship, Trovador...	1,160	Escaped in July.
Ditto.	Brig, Putnam	700	Captured by United States' vessel of war Dolphin, off Cuba.
Praya dos Pescadores	Brig, Charlotte...	550	Repeatedly visited by Her Majesty's cruizers. Escaped in July.
Not known, said to be north of the Congo	Barque, Venus...	800	Repeatedly visited by Her Majesty's cruizers. Escaped in September.
South Coast	Brigantine, Ellen	350	Boarded repeatedly, and by Her Majesty's ship Medusa, with slaves on board, in September.
In the Congo, cruizing in the offing	Yacht, Wanderer	Deck laid for 600	Repeatedly visited by Her Majesty's cruizers.

ABSTRACT.

	Slavers.	Slaves.
Captured in the year 1857, and to the latest dates by Her Majesty's cruizers and Portuguese cruizers, on West Coast of Africa	33	1,501
Escaped in 1857, and to the latest dates	23	14,910
Deduct, captured off Cuba	4	2,750
Total escaped, and cargoes landed in Cuba, in 1857, and to September, 1858	19	11,460*

CHAS. WISE.

* Loss on middle passage to be deducted.

No. 16.—The Earl of Malmesbury to Lord Napier.

MY LORD, *Foreign Office, February* 11, 1859.

WITH reference to my despatch of the 14th ultimo, I inclose, for your Lordship's information, copies of further communications which have passed between Her Majesty's Government and the Government of the Emperor of the French on the question of the

right of visit. Your Lordship will learn from these papers how the matters in negotiation now stand. I am, &c.

Lord Napier. MALMESBURY.

(*Inclosure* 1.)—*Count Walewski to the Duke of Malakoff.*

M. LE MARECHAL, *Paris, le 4 Février*, 1859.

J'AI eu l'honneur de vous transmettre, le 4 Septembre dernier, une note dans laquelle j'avais résumé les bases de l'accord qui nous paraissait pouvoir s'établir entre toutes les Puissances maritimes en matière d'enquête du pavillon. La communication que vous avez faite de cette pièce au Cabinet Anglais, ainsi que je vous en avait prié, a amené entre Lord Cowley et moi un échange successif d'observations, desqu'elles il résulte que, d'une part, le Gouvernement de Sa Majesté Britannique ne considère pas les propositions contenues dans ma note comme étant de nature à établir un système efficace de police maritime, et que, de l'autre, le Gouvernement de l'Empereur ne croit pas possible d'adhérer aux règles qu'on voudrait leur substituer. Dans cet état de choses, le Cabinet de Londres, tout en persistant à croire que nous finirons par nous railler à sa manière de voir, a pensé que les deux Gouvernements pouvaient toujours, pour le moment, munir leurs officiers de marine respectifs d'instructions strictement conformes aux règles posées dans ma note du 4 Septembre, et Lord Cowley m'a adressé une proposition en ce sens. Nous n'avons point d'objection à accueillir cette ouverture dans les termes où elle nous est faite, c'est-à-dire, comme ne devant constituer qu'un état de choses provisoire. Vous savez, en effet, M. le Maréchal, que dans la pensée du Gouvernement de l'Empereur, la question d'enquête du pavillon ne saurait être résolue que par une entente entre la France, la Grande Bretagne, et les Etats Unis, et c'est sous cette réserve



(*Inclosure* 2.)—*The Earl of Malmesbury to the Duke of Malakoff.*

M. LE MARECHAL, *Foreign Office, February* 9, 1859.

IN compliance with the request contained in the despatch addressed to your Excellency by Count Walewski on the 4th instant, which your Excellency has been good enough to communicate to me, I now have the honour to transmit to you a copy of the instructions which Her Majesty's Government propose to give to the commanders of British cruizers for their present guidance, in regard to the visit of vessels navigating under the French flag.

These instructions, your Excellency will perceive, have been drawn up in strict conformity with the views of the Imperial Government, on the question of the right of visit, as laid down in Count Walewski's despatch of the 4th of September last; and I beg leave to request that, in transmitting the proposed draft of instructions to your Government, your Excellency will at the same time request that Her Majesty's Government may be furnished with a copy of the instructions which it is proposed to give to the commanders of French cruizers. I am, &c.

The Duke of Malakoff. MALMESBURY.

(*Inclosure* 3.)—*Instructions proposed to be printed and issued to the Commanding Officers of Her Majesty's Ships and Vessels employed in the Suppression of the Slave Trade.*

Admiralty, , 1859.

THE Treaty with France for the suppression of the Slave Trade having been abrogated, I am commanded by my Lords Commissioners of the Admiralty to acquaint you that, under an arrangement which has been adopted provisionally between the British and French Governments, their Lordships desire that all commanding officers of Her Majesty's ships will strictly attend to the following regulations with regard to visiting merchant-vessels suspected of fraudulently assuming the French flag.

In virtue of the immunity of national flags, no merchant-vessel navigating the high seas is subject to any foreign jurisdiction. A vessel of war cannot, therefore, visit, detain, arrest, or seize (except under Treaty), any merchant-vessel not recognized as belonging to her own nation.

The colours of a vessel being *primâ facie* the distinctive mark of her nationality, and, consequently, of the jurisdiction to which she is subject, it is natural that a merchant-vessel on the high seas, on finding herself in presence of a ship of war, should hoist her national flag in declaration of her nationality. So soon as the ship of war has made herself known by the display of her own colours, the merchant-vessel should accordingly hoist her proper national flag.

Should she refuse to do so, it is admitted by both countries that she may be summoned to do so, first, by a blank gun, and, should that be without effect, it may be enforced by a second gun, shotted, but pointed in such a manner as to insure that she is not struck by the shot.

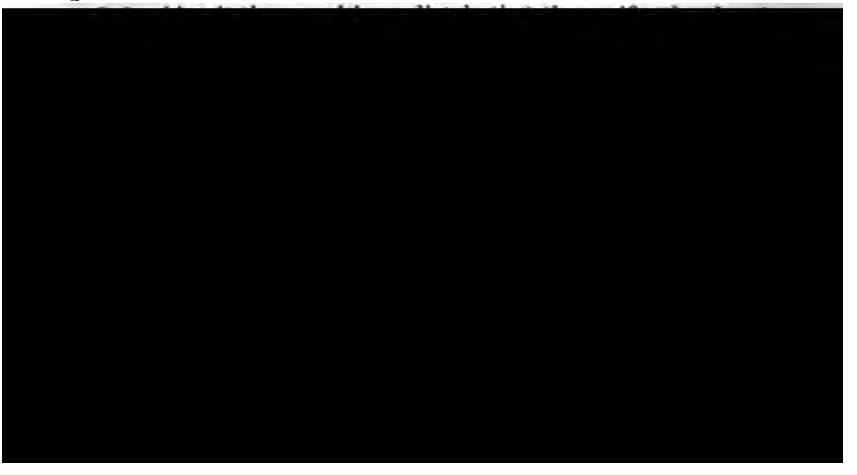
Immediately that the colours are hoisted, and that the merchant-vessel has in this manner announced her nationality, the foreign vessel of war can no longer pretend to exercise control over her. At most, in certain cases, she may claim the right to speak with her, and to demand answers to questions addressed to her through a speaking-trumpet or otherwise, but without obliging her to alter her course.

Whenever, however, the presumption of nationality resulting from the colours which may have been shown by a merchant-vessel may be seriously thrown in doubt, or be questionable, from positive information, or from indications of a nature to create a belief that the vessel does not belong to the nation whose colours she has assumed, the foreign vessel of war may have recourse to the verification of her assumed nationality.

A boat may be detached for this purpose towards the suspected vessel, after having first hailed her, to give notice of the intention. The verification will consist in an examination of the papers establishing the nationality of the vessel. Nothing can be claimed beyond the exhibition of these documents.

To inquire into the nature of the cargo, or the commercial operations of the vessel, or any other fact, in short, than that of the nationality of the vessel, is prohibited. Every other search, and every inspection whatever, is absolutely forbidden.

The officer in charge of the verification should proceed with the greatest discretion, and with every possible consideration and care,



ment, and should explain the reasons of his having so acted. A communication of this report, and of the reasons which may have led to the verification, will be given officially to the Government to which the vessel may belong which shall have been subjected to inquiry as to her flag.

In all cases in which this inquiry shall not be justified by obvious reasons, or shall not have been made in a proper manner, a claim may arise for indemnity.

You will clearly understand that the foregoing instructions have reference only to vessels navigating under the French flag, and are intended mutually to prevent misunderstanding between the British and French Governments, but cannot affect the vessels of other nations with whom Great Britain has Treaties for the suppression of the Slave Trade, or deprive Her Majesty of the right to seize and detain vessels engaged in the Slave Trade when not entitled to the protection of any national flag.

No. 17.—The Earl of Malmesbury to Lord Napier.

My Lord, *Foreign Office, February* 11, 1859.

I transmit to your Lordship herewith a copy of a despatch from Count Walewski, which has been communicated to me by the Duke of Malakoff, by which your Lordship will perceive that the French Government is not disposed to acquiesce, without previous concert with the Government of The United States, in the principle that Her Majesty's Government would propose should be adopted by maritime nations, viz., that a ship of war has the right to compel a merchant-vessel, by force if necessary, to hoist the colours of the nation to which she claims to belong. And the French Minister suggests that a joint understanding should be come to on this subject between the 3 Governments.

I have accordingly to instruct your Lordship to bring this matter under the consideration of General Cass, and you will strongly urge the Government of The United States to acquiesce in the views of Her Majesty's Government upon this point.

I am, &c.

Lord Napier. MALMESBURY.

*(Inclosure.)—Count Walewski to the Duke of Malakoff.**

M. le Marechal, *Paris, le* 8 *Février*, 1859.

Le Gouvernement Anglais nous a proposé de convenir qu'en principe un navire de guerre a le droit de faire hisser le pavillon à tout bâtiment marchand qu'il rencontre en pleine mer, et il m'a fait

* Communicated to the Earl of Malmesbury by the Duke of Malakoff, February 10.

exprimer le vœu que nous nous mettions d'accord avec lui à ce sujet. Le Gouvernement de l'Empereur, après avoir examiné cette proposition avec toute l'attention qu'elle méritait, a pensé que l'adoption d'une règle commune en cette matière avait trop d'importance pour qu'il ne fût pas essentiel de s'en entendre aussi au préalable avec les Etats Unis. Il croit donc que le Gouvernement de la Reine attendrait plus complètement le but qu'il se propose en saisisssant le Cabinet de Washington de la question en même temps que nous. Les 3 Puissances arrêteraient alors de concert une règle de conduite que leur unanimité ferait d'autant mieux accepter comme principe permanent de droit maritime, et dont elles fixeraient la portée de manière à empêcher dans l'application les divergences que le Gouvernement Anglais a évidemment à cœur de prévenir. Je vous prie, M. le Maréchal, de faire part de cette suggestion à Lord Malmesbury, en réponse au désir que Lord Cowley avait été chargé de m'exprimer, et de m'informer de la suite que le Principal Secrétaire d'Etat de Sa Majesté Britannique jugera utile de lui donner.

Agréez, &c.

S.E. le Duc de Malakoff. A. WALEWSKI.

No. 18.—*The Earl of Malmesbury to Lord Napier.*

My Lord, *Foreign Office, February* 15, 1859.

I inclose a copy of the "Times" newspaper of this day, which contains a report of yesterday's debate, in the House of Lords, on the question of the right of search.

I think it useful to send this paper to your Lordship, as giving a very accurate report of my speech, which will, doubtless, attract the attention of General Cass.

I have only to observe, that the reporter has misstated that part of it in which I am made to agree in a suggestion of The United



Although not distinctly instructed to address the Government of The United States on this subject, in writing, I have preferred to do so in order to procure, for the question under discussion, a more formal consideration before the Cabinet than is often accorded to verbal communications.

I find that, some time since, Count de Sartiges had made overtures, in this matter, to the Government of The United States, I conceive upwards of a month ago; but what the date, or what the nature of those proposals, was, I am not exactly informed, for I only know anything of them by some accidental expressions let fall by the Secretary of State and Mr. Appleton.

The Earl of Clarendon. NAPIER.

(*Inclosure.*)—*Lord Napier to General Cass.*

SIR, *Washington, February* 3, 1859.

IN the month of June last I had the honour of receiving from you, and of communicating to Her Majesty's Government an assurance that the Government of The United States would give their attentive consideration to any proposal which might be suggested on the part of Great Britain for the verification of the nationality of merchant-vessels, and their right to the flag which they displayed.

During the interval which has since elapsed, the attention of Her Majesty's Government has been unceasingly directed towards forming some plan of proceeding at sea by which the object under contemplation might be secured without any transgression of those rights to which the maritime Powers attach such a high and just importance.

The correspondence which has passed between Her Majesty's Government and that of France on this subject has resulted in the presentation by the Imperial Cabinet of a memorandum, inclosed herewith, embodying their views, and stating the course which might, in their opinion, be prescribed to the commanders of vessels of war in the verification of the nationality of merchant-ships on the high seas, both with reference to enforcing the exhibition of colours, and ascertaining the right of the suspected vessel to wear them.

Although the proposals of the French Government may not, in all respects, be commensurate to the purpose in view, Her Majesty's Government consider it so important that an identical code of instructions in this matter should be given to their cruizers by all maritime Powers, that they do not hesitate to invite your attention to the overtures of France in the hope that the Government of The United States will acquiesce in the regulations contemplated, and

give orders to the commanders of their naval forces in accordance with the same. I have, &c.

General Cass. NAPIER.

No. 20.—The Earl of Malmesbury to Lord Napier.

MY LORD, *Foreign Office, February* 28, 1859.

WITH reference to your Lordship's despatch of the 7th instant, I have to acquaint your Lordship that I approve the note which you addressed to General Cass, inviting the Government of The United States to acquiesce in the proposals of the French Government for settling the question of the right of visit, and to give orders to the commanders of their naval forces in accordance therewith. I am, &c.

Lord Napier. MALMESBURY.

No. 21.—Lord Napier to the Earl of Malmesbury.—(Rec. Feb. 28.)

MY LORD, *Washington, February* 7, 1859.

I AVAILED myself of an opportunity, on the morning of the 5th instant, to engage General Cass in conversation on the French proposals for the verification of the nationality of merchant-vessels at sea.

I submitted to him that the right of the man-of-war to enforce the exhibition of colours on the part of a merchant-vessel was very imperfectly avowed in the regulations contemplated by the Imperial Cabinet for the guidance of their officers. A blank cartridge was to be discharged, a shot was to be levelled in such a manner as not to strike the obnoxious vessel, but after these preliminary menaces, no authority was given to use measures actually compulsory to attain the object in view. I said, in conformity with the sense of your Lordship's despatch of the 14th ultimo, that if



present, on his responsibility, the boarding officer, on well-founded suspicion, might do all that the projected French regulations would enable him to effect. I remarked that Her Majesty's Government attached much importance to the issue of identical instructions by all the maritime Powers to their respective officers.

The Secretary of State eventually reserved the whole subject for the consideration of the President and Cabinet.

I have, &c.

The Earl of Malmesbury. NAPIER.

No. 22.—Lord Napier to the Earl of Malmesbury.—(*Rec. Feb. 25.*)

My Lord, *Washington, February 10, 1859.*

General Cass sent for me this morning, and informed me that before making an official reply to the overtures of Her Majesty's Government for the verification of the nationality of merchant-vessels at sea, he must await the arrival of letters from the Minister of The United States at Paris with reference to previous correspondence which had taken place on the same subject. Her Majesty's Government, he said, would appreciate the motives of the delay, which did not proceed from any indifference to their wishes.

The Government of The United States desired to give their best consideration to the subject, with the object of enabling the Government of Great Britain to carry out their views, without offending any other interest or sentiment involved in this delicate question.

General Cass did not, however, hold out to me any distinct assurance that the provisions of the French memorandum would be adopted by the Government of The United States as the basis of instructions of their naval officers.

He stated incidentally, that although the Government of The United States could not, perhaps, lay down in principle that a man-of-war had an absolute right to compel a merchant-vessel to display her flag, he believed that in case of refusal on the part of an American vessel to do so, on proper summons, the British ship of war would not be called to account for any measures it might take to enforce the exhibition of colours. I have, &c.

The Earl of Malmesbury. NAPIER.

No. 23.—Lord Napier to the Earl of Malmesbury—(*Rec. March 22.*)

My Lord, *Washington, March 2, 1859.*

In the course of my conversation with General Cass yesterday forenoon, he alluded to the debate in the House of Lords, on the 14th of February, in which your Lordship is reported to have remarked that the Governments of England and France had agreed upon a certain code of instructions to be issued to their respective

commanders at sea, with a view to enforce the exhibition of colours by merchant-vessels, as well as for the purpose of ascertaining the right of the merchant-vessel to wear the flag displayed, and that this code had been submitted to the consideration of the Government of The United States.

The Secretary of State observed that from the communications which had passed between the Governments of France and The United States on this subject, he had not conceived that the French memorandum transmitted to me in your Lordship's despatch of the 11th ultimo, and previously known to the Cabinet of Washington, had been definitively adopted as the basis of common instructions by France and Great Britain separately: he had understood that the adoption of this basis was conditional, on the part of France, on the assent of The United States; and he had written to Paris under that impression, to obtain further explanations of the sense of the memorandum referred to.

General Cass requested me to inform your Lordship that the delay which occurred in replying to your Lordship's overtures was caused by this reference to Paris, and was not prompted by any indifference to the wishes of Her Majesty's Government; he also spoke favourably of the prospect of coming to some harmonious understanding on this subject.

The right of a vessel of war to compel a merchant-vessel to display colours was then adverted to. Such a right was not distinctly recognized by General Cass, but he went so far as to say that the simple fact of refusing to exhibit colours was so high a ground of suspicion that it might seem to sanction boarding and further inquiry, and that even if such an inquiry were not justified by the result, the Government of The United States would not demand redress for an act of visit executed under those circum-



felt great difficulty in acknowledging, *à priori*, the right of a vessel of war to fire into a merchant-vessel for the purpose of enforcing the exhibition of a flag; but still, in his own opinion, for he had no official resolution to deliver, an American vessel which should refuse to display her colours, would be, in a manner, "denationalised;" and that the Government of The United States would not be hasty to resent the measures of restraint or compulsion which might be adopted by a foreign officer in ascertaining her nationality. Indeed, he thought that previous intimation might be made to sea-going vessels, that in case of a stubborn refusal to show a flag, they would not be entitled to the protection of their Government.

Such, I believe, was the correct sense of the remarks offered by the Secretary of State, whose language in these matters is, however, always extremely guarded; and who constantly marks that he is giving utterance to impressions prompted by the pending discussion, and not communicating the deliberate definitive views of the Cabinet over which he presides.

The Earl of Malmesbury. NAPIER.

No. 25.—The Earl of Malmesbury to Lord Napier.

MY LORD, *Foreign Office, March* 25, 1859.

WITH reference to my despatch of the 11th ultimo, I inclose for your Lordship's information, copies of further communications which have passed between the Duke of Malakoff and myself, relative to the instructions to be issued by the French and English Governments respectively for the guidance of their officers in regard to the question of the right of visit. I am, &c.

Lord Napier. MALMESBURY.

(*Inclosure* 1.)—*Memorandum communicated to the Earl of Malmesbury by the Duke of Malakoff, February* 25, 1859.

Réserves:

1. LE paragraphe 3 de notre note dit que si un bâtiment de commerce refuse de hisser son pavillion, "il est admis qu'on puisse le semoncer par un premier coup de canon, &c." Ce paragraphe, devenu le 4me des instructions Anglaises, y a été traduit de la sorte: "Should she refuse to do so, it is admitted by both countries that she may be summoned to do so, first, &c." Or, le mot "semoncer" est un terme de marine Français dont la signification exacte est celle "d'avertir à haute voix," tandis que le mot "summon," par lequel il a été traduit, et qui semble le render littéralement, emporte avec lui l'idée de sommation, et, par suite, de contrainte. Afin de faire disparaître le sens trop impératif qui s'attacherait à cette expression, M. le Ministre de la Marine a cru devoir supprimer le mot "semoncer" dans le projet Français d'in-

structions, et rédiger de la manière suivante le paragraphe où il eût figuré : "S'il néglige de le faire, les deux Gouvernements admettent qu'on peut lui donner un premier avertissement en tirant un coup de canon à poudre ; et, si celui-ci reste sans effet, un second avertissement, en tirant un coup de canon chargé à boulet, mais pointé de manière à ne pas l'atteindre." C'est donc l'expression exactement correspondante à celle de "donner un avertissement," que nous désirons voir substituer aussi à celle de "summon," dans le texte Anglais.

2. Le paragraphe 10 du projet de l'Amirauté porte "qu'en toute hypothèse, il est bien entendu qu'un bâtiment de guerre qui décide à aborder un navire de commerce étranger, le fait à ses risques et périls, &c." M. le Ministre de la Marine exprime le vœu qu'il soit dit, pour donner plus de précision à la rédaction, "en toute hypothèse, il est bien entendu que le capitaine d'un bâtiment de guerre, &c.

Instructions proposed to be issued to the Commanders of French Ships of War.

1. L'ABROGATION du Traité passé avec la Grande Bretagne pour la suppression de la Traite a fait sentir aux deux Gouvernements Français et Anglais la nécessité d'un arrangement provisoire relativement à la visite des navires marchands soupçonnés d'arborer indûment le pavillon Anglais.

2. A l'abri de l'indépendance de son pavillon national, un navire de commerce naviguant en pleine mer n'est sujet à aucune juridiction étrangère à moins d'y être autorisé par un Traité. Un bâtiment de guerre ne peut donc visiter, retenir, arrêter, et saisir que les navires de commerce qu'il reconnait avoir la même nationalité que lui.

3. Le pavillon d'un navire étant de prime abord la marque distinctive de sa nationalité, et conséquemment de la juridiction de laquelle il relève, il est naturel qu'un navire de commerce, passant en pleine mer en vue d'un bâtiment de guerre, hisse son pavillon pour faire connaître sa nationalité. Dès que le bâtiment de guerre s'est fait reconnaître en arborant ses couleurs et marques distinctives, le navire marchand doit donc également hisser son pavillon de nation.

4. S'il néglige de le faire, les deux Gouvernements admettent qu'on peut lui donner un premier avertissement en tirant un coup de canon à poudre, et si celui-ci reste sans effet, un second avertissement en tirant un coup de canon chargé à boulet, mais pointé de manière à ne pas l'atteindre.

5. Dès qu'en arbortant ses couleurs, le navire marchand a établi sa nationalité, le bâtiment de guerre étranger ne peut plus prétendre à exercer le moindre contrôle sur lui. Tout au plus peut-il, dans certains cas, user du droit de la faire raisonner, c'est-à-dire, de

l'inviter à répondre à des questions faites au porte-voix ou autrement, sans toutefois contrarier sa route. Si, cependant, la présomption de nationalité résultant des couleurs qui auraient été arborées par un navire de commerce peut être sérieusement mise en doute, soit par suite de renseignements positifs, soit par suite d'indices de nature à faire croire que ce navire n'appartient pas à la nation dont il a pris les couleurs, le bâtiment de guerre étranger peut recourir à la vérification de cette pretendue nationalité.

6. Un canot pourra, dans ce but, être envoyé à bord du navire suspect après qu'on l'aura hélé pour lui donner avis de cette intention. La vérification consistera dans l'examen des papiers constatant la nationalité du navire. Rien ne pourra être réclamé de plus que la présentation de pièces.

7. Toute enquête sur la nature du chargement, sur les opérations commerciales des dits navires, sur un autre fait, en un mot, que leur nationalité, toute recherche, toute visite, sont absolument interdites.

8. L'officier chargé de cette vérification devra procéder avec tous les égards et tous les menagements possibles. Il devra quitter le navire dès que la vérification aura été effectuée, et offrir de noter sur les papiers du bord le fait, les circonstances de la vérification, et les raisons qui l'y auront déterminé.

9. Hors le cas de légitime suspicion de fraude, il ne devra d'ailleurs jamais être nécessaire que le commandant d'un bâtiment de guerre étranger ait à monter ou à envoyer à bord d'un navire marchand, tant sont nombreux les indices qui, abstraction faite des couleurs, révèlent à l'œil exercé d'un marin la nationalité d'un navire.

10. En toute hypothèse il est bien entendu que le capitaine d'un bâtiment de guerre qui se décide à monter ou à envoyer à bord d'un navire de commerce, le fait toujours à ses propres risques et périls, et demeure responsable de toutes les conséquences de son acte.

11. Le commandeur d'un bâtiment de guerre qui aura eu recours à cette mesure devra, dans tous les cas, en faire l'objet d'un rapport à son Gouvernement, et l'informer des motifs évidents qui l'ont fait agir. Communication de ce rapport et des motifs qui ont provoqué cette constatation, sera officiellement donnée au Gouvernement auquel appartiendra le navire qui aura été soumis à la vérification de son pavillon.

Toutes les fois que celle-ci ne sera pas justifiée par des raisons suffisantes, ou n'aura pas été faite d'une manière convenable, il y aura lieu à indemnité.

Bien que les instructions qui précèdent s'appliquent particulièrement aux navires sous pavillon Anglais et aient pour but, de part et d'autre, de prévenir toute mésintelligence entre les Gouvernements de la France et de la Grande Bretagne, il est bien entendu qu'elles

devront vous diriger dans vos rapports avec les marines de toutes les nations avec lesquelles le Gouvernement de l'Empereur est en paix.

(*Inclosure* 2.)—*The Earl of Malmesbury to the Duke of Malakoff.*

M. LE MARECHAL, *Foreign Office, March* 9, 1859.

I DID not fail to transmit to the Lords Commissioners of the Admiralty the memorandum which your Excellency communicated to me on the 25th ultimo, suggesting certain alterations in the 4th and 10th paragraphs of the instructions which it is proposed to issue to the Commanders of British cruizers, for their guidance in regard to the visit of vessels navigating under the French flag.

I have now to acquaint your Excellency that their Lordships have informed me that they do not object to the proposed alterations; and I accordingly transmit to your Excellency a copy of the 4th and 10th paragraphs of the English instructions, as amended in conformity with the suggestions of the Imperial Government.

I have further to state to your Excellency, that I should be glad to be informed when the corresponding instructions will be issued to the Commanders of French cruizers, in order that the English instructions may be given at the same time to the Commanders of British ships of war.

I am, &c.

The Duke of Malakoff. MALMESBURY.

(*Inclosure.*)—*Copy of the* 4*th and* 10*th Paragraphs of the Instructions proposed to be printed and issued to the Commanding Officers of Her Majesty's Ships and Vessels employed in the Suppression of the Slave Trade.*

4. SHOULD she refuse to do so, it is admitted by both Governments that a warning may be given to her, first, by firing a blank gun; and should that be without effect, it may be enforced by a second gun, shotted, but pointed in such a manner as to ensure that she is not struck by the shot.

10. In every case it is to be clearly understood that the captain of a ship of war who determines to board a merchant-vessel must do so at his own risk and peril, and must remain responsible for all the consequences which may result from his own act.

(*Inclosure* 4.)—*Count Walewski to the Duke of Malakoff.**

M. LE MARECHAL, *Paris, le* 19 *Mars*, 1859.

M. LE MINISTRE de la Marine vient de m'annoncer qu'il a pris connaissance des changements apportés par l'Amirauté Britannique

* Communicated to the Earl of Malmesbury by the Duke of Malakoff, March 23.

au texte des paragraphes 4 et 10 du projet d'instructions sur l'enquête du pavillon, et qu'une identité complète étant établie entre les instructions préparées par les deux Gouvernements, il se propose d'envoyer celles destinées à nos officiers commandant à la mer, par le premier courrier qui partira le mois prochain, pour chacun des chefs-lieux de nos stations navales. Je m'empresse de vous transmettre cette information comme suite à ma lettre du 14 de ce mois, et je vous prie d'en faire part à Lord Malmesbury.

Je reçois, d'ailleurs, à l'instant, votre dépêche sous le No. 32, dans laquelle vous m'annoncez que le Principal Secrétaire d'Etat de la Reine vous a exprimé le désir d'obtenir une copie de nos instructions définitives. Bien que le texte ne puisse en être douteux maintenant, je demande à M. le Ministre de la Marine de me mettre en mesure de vous faire parvenir cette pièce, et je vous prie de réclamer de Lord Malmesbury une communication des instructions que le Gouvernement Anglais compte adresser, de son côté, aux officiers de la Marine Britannique. Agreez, &c.

Le Duc de Malakoff. A. WALEWSKI.

(*Inclosure* 5.)—*The Duke of Malakoff to the Earl of Malmesbury.*

M. LE COMTE, *Albert-Gate House, le* 24 *Mars*, 1859.

POUR faire suite à ma lettre du 19 de ce mois, j'ai l'honneur de vous transmettre ci-joint, copie des instructions relatives à l'enquête du pavillon que M. le Ministre de la Marine se propose d'envoyer aux officiers de la Marine Impériale commandant à la mer. Elles seront adressées, sous forme de note, avec le texte Anglais en regard, aux commandants de nos stations navales, et il leur sera prescrit de s'y conformer provisoirement pour la vérification des pavillons suspects, en attendant que les 3 Gouvernements de France, de la Grande Bretagne, et des Etats Unis, se soient mis complètement d'accord sur cette importante question.

En m'invitant à communiquer ces instructions, au Gouvernement de la Reine, le Comte Walewski me charge de demander à votre Excellence une copie de celles que le Gouvernement Anglais compte adresser de son côte aux officiers de sa Marine Britannique.

Veuillez, &c.

Le Comte de Malmesbury. MAL. PELISSIER.

(*Inclosure* 6.)—*Instructions issued to Commanders of French Ships of War.*

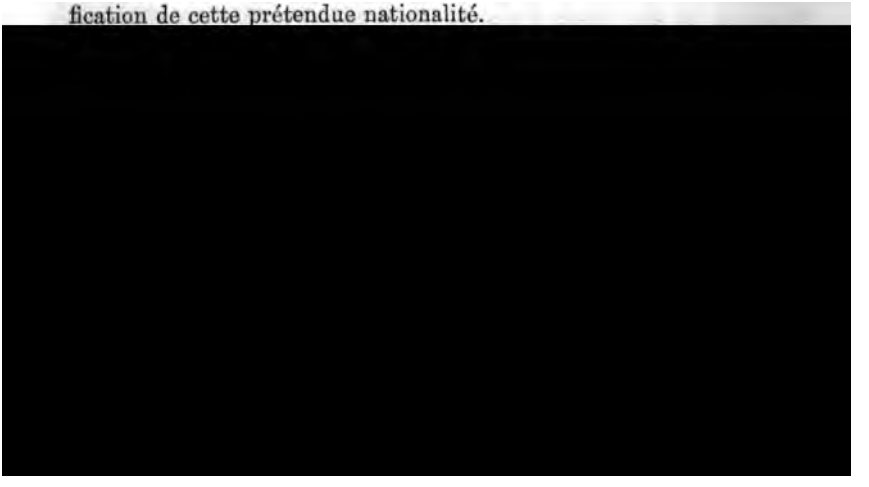
L'ABROGATION du Traité passé avec la Grande Bretagne pour la suppression de la traite a fait sentir aux deux Gouvernements Français et Anglais la nécessité d'un arrangement provisoire relativement à la visite des navires marchands soupçonnés d'arborer indûment le pavillon Anglais.

A l'abri de l'indépendance de son pavillon national, un navire de commerce naviguant en pleine mer n'est sujet à aucune juridiction étrangère, à moins d'y être autorisé par un Traité. Un bâtiment de guerre ne peut donc visiter, retenir, arrêter, et saisir que les navires de commerce qu'il reconnaît avoir la même nationalité que lui.

Le pavillon d'un navire étant de prime abord la marque distinctive de sa nationalité, et conséquemment de la juridiction de laquelle il relève, il est naturel qu'un navire de commerce, passant en pleine mer en vue d'un bâtiment de guerre, hisse son pavillon pour faire connaître sa nationalité. Dès que le bâtiment de guerre s'est fait reconnaître en arborant ses couleurs et marques distinctives, le navire marchand doit donc également hisser son pavillon de nation.

S'il néglige de la faire, les deux Gouvernements admettent qu'on peut lui donner un avertissement en tirant d'abord un coup de canon à poudre, et si celui-ci reste sans effet, un second avertissement en tirant un coup de canon chargé à boulet, mais pointé de manière à ne pas l'atteindre.

Dès qu'en arborant ses couleurs, le navire marchand a établi sa nationalité, le bâtiment de guerre étranger ne peut plus prétendre à exercer le moindre contrôle sur lui. Tout au plus peut-il, dans certains cas, user du droit de le faire raisonner, c'est à-dire, de l'inviter à répondre à des questions faites au porte-voix ou autrement, sans toutefois contrarier sa route. Si, cependant, la présomption de nationalité résultant des couleurs qui auraient été arborées par un navire de commerce peut être sérieusement mise en doute, soit par suite de renseignements positifs, soit par suite d'indices de nature à faire croire que ce navire n'appartient pas à la nation dont il a pris les couleurs, le bâtiment de guerre étranger peut recourir à la vérification de cette prétendue nationalité.



étranger ait à monter ou à envoyer à bord d'un navire marchand, tant sont nombreux les indices qui, abstraction faite des couleurs, revèlent à l'œil exercé d'un marin la nationalité d'un navire.

En toute hypothèse, il est bien entendu que le capitaine d'un bâtiment de guerre qui se décide à monter ou à envoyer à bord d'un navire de commerce, le fait toujours à ses propres risques et périls, et demeure responsable de toutes les conséquences de son acte.

Le commandant d'un bâtiment de guerre qui aura eu recours à cette mesure, devra, dans tous les cas, en faire l'objet d'un rapport à son Gouvernement et l'informer des motifs évidents qui l'ont fait agir. Communication de ce rapport et des motifs qui ont provoqué cette constatation sera officiellement donnée au Gouvernement auquel appartiendra le navire qui aura été soumis à la vérification de son pavillon.

Toutes les fois que celle-ci ne sera pas justifiée par des raisons suffisantes, ou n'aura pas été faite d'une manière convenable, il y aura lieu à indemnité.

Bien que les instructions qui précèdent s'appliquent particulièrement aux navires sous pavillon Anglais, et qu'elles aient pour but de prévenir toute mésintelligence entre les Gouvernements de France et de la Grande Bretagne, il est bien entendu qu'elles devront régler les rapports des officiers Français avec les navires de toutes les nations avec lesquelles le Gouvernement de l'Empereur est en paix.

No. 26.—*Lord Napier to the Earl of Malmesbury.*—(*Rec. Mar.* 29.)

My Lord, *Washington, March* 14, 1859.

Under your Lordship's instructions, conveyed to me in your despatch of January 14, I imparted to General Cass the memorandum submitted to Her Majesty's Government by that of France, in reference to the verification of the nationality of merchant-vessels at sea.

I had the honour of receiving, in your Lordship's despatch of the 11th of February, a draft of instructions based upon the memorandum above mentioned, which Her Majesty's Government propose to issue to the naval officers of Great Britain, and which the French Government have, as I learn from M. de Sartiges, adopted, with some slight verbal modification, as a rule for the conduct of their ships of war in the same department of duty.

After consulting with M. de Sartiges, I thought it desirable that the Government of The United States should be placed in possession of the draft of instructions referred to. I have accordingly forwarded it to General Cass, with the accompanying note, in which I have also urged upon him the recognition of the principle

that a ship of war has a right to compel a merchant-vessel on the high seas to display her flag, even by the use of force, if necessary.

I have, &c.

The Earl of Malmesbury. NAPIER.

(*Inclosure.*)—*Lord Napier to General Cass.*

SIR, *Washington, March* 12, 1859.

IN my note of February 3, I had the honour of laying before you a memorandum communicated to Her Majesty's Government by that of France, embodying the basis on which it was conceived that regulations might be framed for the guidance of the commanders of vessels of war in ascertaining the nationality of merchant-vessels at sea.

Further communications on the same subject between the Cabinets of Paris and London have resulted in the presentation, on the part of Great Britain, of the accompanying draft of instructions, conformable to the basis above-mentioned, which Her Majesty's Government are prepared to issue to their officers, and which it is hoped may be acceptable to the Governments of France and The United States.

This scheme of instructions was, by my last intelligence, under the consideration of the French Cabinet, and it is, with the assent of the French Minister, communicated to you, in order that in framing that reply which I am led to expect from the Government of The United States, on the receipt of further explanations from Paris, you may have before you as complete a view as possible of the state of the negotiation between the European Powers.

I avail myself of this occasion also to submit to you again the strong desire entertained by Her Majesty's Government that, in adjusting a common method of procedure in this matter, the Government of The United States should recognize the principle that a ship of war has a right to compel a merchant-vessel, by force, if necessary, to hoist the colours of the nation to which she claims to belong. This question is one which I have more than once brought under discussion in verbal conference with you, and I have not failed to convey to the Earl of Malmesbury the general sense of your occasional reflections on the subject. As the principle referred to continues to engage the attention of the Cabinets of England and France, and as the opinion of the Government of The United States must justly have great weight with the maritime Powers, I have thought it advisable to bring the question again under your notice, in the hope that, in your eventual answer to the overtures of Her Majesty's Government, some resolution of an unambiguous and official character may be conveyed on a point of

no slight importance in the adjustment of a method for the verification of the neutrality of shipping on the high seas.

I have, &c.

General Cass. NAPIER.

No. 27.—The Earl of Malmesbury to Lord Napier.

My Lord, *Foreign Office, March* 31, 1859.

With reference to your despatch of the 14th instant, I have to acquaint your Lordship that I approve your note to General Cass, communicating a copy of the instructions which Her Majesty's Government propose to issue to the commanders of British ships of war, for their guidance in regard to the visit of vessels navigating under the French flag.

Some alterations have, at the suggestion of the French Government, been made in the 4th and 10th paragraphs of these instructions, as you will have learnt from the correspondence between the Duke of Malakoff and myself, of which copies were inclosed in my despatch of the 25th instant; and I now inclose copies of the instructions, as agreed upon between the two Governments, for the common action of their cruizers, until the Governments of England, France, and The United States shall have come to a complete understanding on this question. I am, &c.

Lord Napier. MALMESBURY.

No. 28.—The Earl of Malmesbury to the Duke of Malakoff.

M. le Marechal, *Foreign Office, April* 2, 1859.

I have the honour to acknowledge the receipt of your Excellency's note of the 24th ultimo, inclosing a copy of the instructions proposed to be issued to the commanders of French cruizers for their guidance in regard to the question of the right of visit; and, in compliance with your Excellency's request, I beg leave to transmit, herewith, a copy of the instructions which, on the part of Her Majesty's Government, it is proposed to issue forthwith to the commanders of British cruizers. I am, &c.

The Duke of Malakoff. MALMESBURY.

(Inclosure.)—Instructions about to be issued to the Commanders of British Cruizers.

Sir, *Admiralty,*

1. The Treaty with France for the suppression of the Slave Trade having been abrogated, I am commanded by my Lords Commissioners of the Admiralty to acquaint you that, under an arrangement which has been adopted provisionally between the British and French Governments, their Lordships desire that all commanding officers of Her Majesty's ships will strictly attend to the following

regulations with regard to visiting merchant-vessels suspected of fraudulently assuming the French flag.

2. In virtue of the immunity of national flags, no merchant-vessel navigating the high seas is subject to any foreign jurisdiction. A vessel of war cannot therefore visit, detain, arrest, or seize (except under Treaty) any merchant-vessel not recognized as belonging to her own nation.

3. The colours of a vessel being *primâ facie* the distinctive mark of her nationality, and, consequently, of the jurisdiction to which she is subject, it is natural that a merchant-vessel on the high seas, on finding herself in presence of a ship of war, should hoist her national flag in declaration of her nationality. So soon as the ship of war has made herself known by the display of her own colours, the merchant vessel should, accordingly, hoist her proper national flag.

4. Should the merchant-vessel refuse to do so, it is admitted by both Governments that a warning may be given to her; first, by firing a blank gun, and should that be without effect, it may be enforced by a second gun, shotted, but pointed in such a manner as to ensure that she is not struck by the shot.

5. Immediately that the colours are hoisted, and that the merchant-vessel has in this manner announced her nationality, the foreign vessel of war can no longer pretend to exercise a control over her. At most, in certain cases, she may claim the right to speak with her, and demand answers to questions addressed to her by a speaking-trumpet or otherwise, but without obliging her to alter her course. When, however, the presumption of nationality resulting from the colours which may have been shown by a merchant-vessel, may be seriously thrown in doubt, or be questionable from positive information, or from indications of a nature to



has been effected, and should offer to note on the ship's papers the circumstances of the verification, and the reasons which may have led to it.

9. Except in the case of legitimate suspicion of fraud, it should never otherwise be necessary for the commander of a foreign ship of war to go on board, or to send on board a merchant-vessel. Apart from the colours shown, the indications are numerous which should be sufficient to satisfy seamen of the nationality of a vessel.

10. In every case it is to be clearly understood that the captain of a ship of war who determines to board a merchant-vessel must do so at his own risk and peril, and must remain responsible for all the consequences which may result from his own act.

11. The commander of a ship of war who may have recourse to such a proceeding should, in all cases, report the fact to his own Government, and should explain the reason of his having so acted. A communication of this report, and of the reasons which may have led to the verification, will be given officially to the Government to which the vessel may belong which shall have been subjected to inquiry as to her flag.

In all cases in which this inquiry shall not be justified by obvious reasons, or shall not have been made in a proper manner, a claim may arise for indemnity.

You will clearly understand that the foregoing instructions have reference only to vessels navigating under the French flag, and are intended mutually to prevent misunderstanding between the British and French Governments, but cannot affect the vessels of other nations with whom Great Britain has Treaties for the suppression of the Slave Trade, or deprive Her Majesty of the right to seize and detain vessels engaged in the Slave Trade, when not entitled to the protection of any national flag.

I am, &c.

No. 29.—Lord Napier to the Earl of Malmesbury.—(Rec. April 4.)

MY LORD, *Washington, March 16, 1859.*

IN conformity with your Lordship's instructions, conveyed to me in your despatch of the 15th ultimo, I have placed in the hands of the Secretary of State the "Times" newspaper, containing a report of a speech delivered by your Lordship in the House of Lords on the 14th of February, in regard to the measures contemplated for the verification of the nationality of vessels at sea, as well as for the suppression of the African Slave Trade, now so extensively prosecuted by the surreptitious adoption of the flag of The United States.

I pointed out at the same time to general Cass the erroneous passage in the report, by which your Lordship is represented to have affirmed that The United States had engaged to place 10 steam gunboats on the coast of Africa.

In acknowledgment of my communication, the Secretary of State has informed me that the view taken by your Lordship was marked by sound judgment, and dictated by a candid spirit, and that he highly appreciates your Lordship's sentiments and the explanations which you afforded to Parliament on the occasion referred to. I have, &c.

The Earl of Malmesbury. NAPIER.

No. 30.—The Earl of Malmesbury to Lord Lyons.

My Lord, *Foreign Office, April* 21, 1859.

The Duke of Malakoff has stated to me, that the French Government wish that your Lordship should be directed to join the French Minister at Washington, in inviting The United States' Government to adopt identically the instructions which have been provisionally agreed upon by the English and French Governments, for the common action of their cruizers, in regard to the verification of the nationality of merchant-vessels at sea.

I have, accordingly, to instruct your Lordship to acquaint M. Sartiges that you have been directed to place yourself in communication with him on this subject, and you will join with him in urging upon The United States' Government the adoption, identically, for American cruizers, of the instructions which have been provisionally agreed upon by the French and English Governments.

A copy of these instructions was transmitted to Lord Napier in my despatch of the 31st ultimo. I am, &c.

Lord Lyons. MALMESBURY.

[redacted]

With respect to the special question which was propounded by the British and French Governments respecting the steps to be taken in the case of a vessel refusing to show any colours at all, General Cass told me that he could have no difficulty in assenting to the proposal that a boat should be permitted to go alongside; and further, that his own private opinion was, that in case a ship refused to show her colours, it might be determined that the officer of a cruizer boarding her should incur no responsibility by so doing; but there might be objections to this which did not at the moment occur to him. He said that the Executive might issue orders on the subject to the collectors at the ports in the Union, and to the officers in command of The United States' cruizers, desiring them to urge masters of American ships to show their colours upon all proper occasions; but that the President had no power, without an Act of the Legislature, to impose penalties upon masters of vessels who should, notwithstanding, neglect or refuse to do so.

General Cass proceeded to remark that there were now few or no points of difference between the Governments of Great Britain, The United States, and France upon the Slave Trade: all now admitted that cruizers had no right to board vessels of a foreign nation; all were agreed that if the grounds of suspicion against a ship were serious and reasonable, no Government should raise a complaint if she should be boarded by mistake by a foreign cruizer, provided that the proceedings were conducted with proper precautions and due courtesy. He concluded by repeating that he should, in a few days, be prepared to enter upon the whole matter with me.

The Earl of Malmesbury. LYONS.

No. 32.—Lord Lyons to the Earl of Malmesbury.—(Rec. May 24.)
(Extract.) *Washington, May 10, 1859.*

I HAD the honour, on the 7th instant, to receive your Lordship's despatch of the 21st ultimo, directing me to join the Count de Sartiges, the French Minister here, in urging upon the Government of The United States the adoption identically for American cruizers, of the instructions which have been provisionally agreed upon by the Governments of Great Britain and France, in regard to the verification of the nationality of merchant-vessels at sea.

I have the honour to inclose a copy of a note on the subject, addressed to General Cass yesterday, by the Count de Sartiges, as well as a copy of an almost identic note sent in by me at the same time.

The only difference between the French note and mine (except that necessarily resulting from the different idioms of the two languages) consists in the omission by me of a reference made by M. de Sartiges to a note addressed to him by the American Government on the 25th of January last.

General Cass told me yesterday that it was his intention to make, in the course of this week, an answer to the communications which he received some time ago, from the British and French Missions, on the general question of the verification of the nationality of merchant-vessels.

The Earl of Malmesbury. LYONS.

(*Inclosure* 1.)—*The Count de Sartiges to General Cass.*

MONSIEUR, *Washington, le* 9 *Mai*, 1859.

J'AI eu précédemment l'honneur de vous communiquer les instructions que le Gouvernement de l'Empereur avait données aux officiers de la marine Impériale relativement au mode d'enquête de la nationalité des navires marchands rencontrés par des bâtiments de guerre.

Des instructions identiques, et qui vous ont été communiquées par M. le Ministre d'Angleterre à Washington, ont été également adressées aux officiers de la marine Anglaise.

Aujourd'hui le Gouvernement de l'Empereur, d'accord avec le Gouvernement de Sa Majesté Britannique sur la démarche à faire, comme il l'a été pour la rédaction des instructions aux officiers de la marine de France et de celle d'Angleterre, et s'en référant à l'esprit et à la lettre de la réponse que vous m'avez fait l'honneur de m'adresser le 25 Janvier dernier, me charge d'inviter le Gouvernement des Etats Unis à adopter pour les croiseurs des bâti-



Her Majesty's Government being agreed with the Government of the Emperor, as well in taking the present step as in drawing up the instructions lately issued to the officers of the British and French navies, have directed me to invite the Government of The United States to adopt for their cruizers instructions identical with those which have been provisionally adopted for their own ships of war by the Governments of Great Britain and France.

I have, &c.

General Cass. LYONS.

No. 33.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. May* 30.)

(Extract.) *Washington, May* 16, 1859.

I HAVE the honour to transmit to your Lordship herewith a copy of a note addressed to me on the 12th instant, by General Cass, in reply to the note dated the 9th instant, in which I invited the Government of The United States to adopt, identically for their own cruizers, the instructions agreed upon by the Governments of Great Britain and France, in regard to the verification of the nationality of merchant-vessels at sea.

In reply to the almost identic note presented by my French colleague, Comte de Sartiges, General Cass has transmitted to him a copy of this note to me, accompanied only by a short letter, of which also I have the honour to inclose a copy herewith.

Your Lordship will perceive that General Cass also officially communicates to me the note addressed by him to the Comte de Sartiges on the 25th January last.

General Cass discusses in his note to me various questions of principle. With regard to the special object of invitation, to which it is an answer, he says, that The United States will issue renewed instructions to its naval officers, and that a copy of them shall be furnished to me; but he does not engage that they shall be identical with those agreed upon by the British and French Governments.

I have not failed to remind General Cass that, the instructions finally adopted by Great Britain and France are those which I placed in his hands on the 23rd ultimo, and that they slightly differ from the draft transmitted to him in Lord Napier's note of the 12th March last.

The Earl of Malmesbury. LYONS.

(*Inclosure* 1.)—*General Cass to Lord Lyons.*

MY LORD, *Washington, May* 12, 1859.

YOUR note of the 9th instant, in reference to the instructions which Her Majesty's Government have given to the officers of the

Royal Navy, relative to the mode in which the "nationality of merchant-vessels is to be verified by ships of war meeting them at sea," has been received. A draft of these instructions had been communicated to me by your predecessor, Lord Napier, under date of the 12th of March last, with the hope expressed by his Lordship that they might prove "acceptable to the Governments of France and The United States." Instructions of a similar character had been also communicated to this Government by the Minister of France, and as expressing the general views of the President concerning them, I inclose a copy of my reply to that Minister, dated 25th January, 1859. Since that time I have received from Count Sartiges an extract from an official despatch of Count Walewski's, dated 13th April, which fully sustains the doctrines of my note of the 25th January, and the interpretation which, in conformity with those documents, I had placed upon the French project. There can no longer remain any doubt, therefore, that The United States, Great Britain, and France, are entirely agreed in reference to the principles which they hold respectively upon this important subject.

As stated in the draft furnished by Lord Napier, "no merchant-vessel navigating the high seas is subject to any foreign jurisdiction. A vessel of war cannot, therefore, visit, detain, arrest, or seize (except under Treaty) any merchant-vessel not recognized as belonging to her own nation." And as a necessary consequence from this rule, it is added in the same draft that "in every case it is clearly to be understood that the vessel of war which determines to board a merchant-vessel must do so at her own risk and peril, and must remain responsible for all the consequences which may result from her own act."

These extracts, which fix the responsibility of every Govern-

[redacted]

it by Treaty, every nation has the exclusive care of its own flag upon the high seas.

The responsibility of each Government for its respective officers is thus very much limited by the comparatively small number of cases in which the detention of a merchant-vessel can under any circumstances occur.

The instructions submitted by Lord Napier seem very properly calculated to limit it still further; and in the exercise of a similar caution this Government will issue renewed instructions to its naval officers with reference to this subject, a copy of which, as soon as they shall have been issued, shall be furnished you, for transmission to London. In the meantime it is hoped that, by the substitution of steamers for sailing-vessels on the coast of Africa and Cuba, the abuse of either the American or the British flag for the purposes of the Slave Trade, may be effectually prevented.

Your Lordship will perceive from the inclosed copy, that this Government concurs with the Governments of Great Britain and France as to the propriety of an exhibition of her flag by every merchantman on the ocean, whenever she meets a ship of war, either of her own or any foreign nation. Just in proportion to the protection which she claims by virtue of her flag, should be the alacrity with which, on all proper occasions, she should display it; nor can I perceive the slightest reason why this duty should be avoided by any honest vessel.

This view of the subject will be made known to the merchant marine of The United States by circular letters from the Treasury department to the collectors of the Customs, who will request its observance from all merchant captains. The President has no authority to compel this observance, but he will not hesitate to promote it by any proper means which may be in his power.

In reference to the friendly approach of a suspected vessel for the purpose of observation, it is not perceived that any objection can exist to such a course, in cases where this is practicable, and where the suspicions are of such a character as to justify an observation at all.

The liberty of approach under such circumstances has been distinctly affirmed by the Supreme Court of the United States. In the case of the "Mariana Flora" (XI Wheaton R. i), the law was laid down as follows:

"Merchant ships are in the constant habit of approaching each other on the ocean, either to relieve their own distress, to procure information, or to ascertain the character of strangers; and hitherto there has never been supposed in such conduct any breach of the customary observances, or of the strictest principles of the Law of Nations.

"In respect to ships of war sailing, as in the present case, under the authority of their Government, to arrest pirates and other public offenders, there is no reason why they may not approach any vessels descried at sea, for the purpose of ascertaining their real characters. Such a right seems indispensable for the fair and discreet exercise of their authority, and the use of it cannot be justly deemed indicative of any design to insult or injure those they approach, or to impede them in their lawful commerce. On the other hand, it is as clear that no vessel is, under the circumstances, bound to lie by or wait the approach of any other ship."

Ordinarily, the above observation of any merchant-vessel will very well point out its national character. There are numerous indications which, to the practised eye of a seaman, furnish conclusive evidence on this subject. Should a further examination in any case be thought justifiable, it is difficult to perceive how this is to be accomplished against the will of a suspected vessel by any peaceful mode. For such a case it is hardly practicable to make regulations in advance.

The rules which prevail in time of war to prevent conflicts between neutrals and allies, and belligerents, and even between armed vessels of the same nation, are not properly applicable to a state of peace; and every case of the kind referred to may, perhaps, be left most wisely to be determined by its own peculiar circumstances, under the general provisions of the law of nations.

Before closing this despatch, I take the liberty to advert, for a moment, to the single passage in the "instructions," which I do not fully understand. It is the final paragraph of the draft inclosed to me by Lord Napier, in which allusion is made to the right of Her Majesty's officers "to seize and detain vessels engaged in the Slave Trade when not entitled to the protection of any national



(*Inclosure 2.*)—*General Cass to Count de Sartiges.*

SIR, *Washington, January* 25, 1859.

THE memorandum which you left with me some weeks ago, in reference to the subject of verifying the national character of merchant-vessels on the high seas, should have received an earlier reply, had I not expected that a "projet" upon the same subject would soon be presented from Great Britain, and that thus the two plans might be considered together. No proposition, however, from Her Majesty's Government has been received; and I understand from you, that the Government of France, before any further discussion of the subject with the Cabinet of Great Britain, prefers to ascertain, as far as possible, the general views concerning it of the Government of The United States.

Under these circumstances, I am instructed by the President to communicate to you his views upon this important subject.

In respect to the African Slave Trade, for whose protection the flags of different nations are sometimes prostituted, the position of the Government cannot require any explanation. The United States were among the earliest of the nations of the world to denounce the traffic as unjust and inhuman, and it is still one of the highest crimes which are recognized by our laws. For the execution of these laws the President, I am instructed to say, will not hesitate to use the most efficient means at his disposal.

While, however, the President is thus earnestly opposed to the African Slave Trade, and thus determined to give full effect to the laws of The United States for its suppression, he cannot permit himself, in so doing, to concur in any principle, or assent to any practice, which he believes would be inconsistent with that entire immunity of merchant-vessels upon the ocean, in time of peace, for which this Government has always contended, and in whose preservation the commerce of the world has so deep an interest.

This is also the position, I am gratified to observe, of the Government of France. France, like The United States, recognizes no right of search or visit upon the high seas, except in time of war. France, like The United States, holds, in the language of your memorandum, that "an armed vessel cannot visit, detain, arrest, or seize any but such merchant-vessels as it ascertains to belong to the same nation to which the armed vessel itself belongs." France, like The United States, holds further, that while cases may exist of a fraudulent assumption of a flag, the verification of such a case must be made at the peril of the party making it, or, in the words of your memorandum, "under all circumstances it is well understood that the armed vessel that may determine to board a

foreign merchant-vessel, does so in every instance at its own risk and peril, and stands responsible for all the consequences which may follow the act."

While thus recognizing the immunity of merchant vessels on the ocean, and the grave responsibility which is assumed by a ship of war when she boards a foreign ship in order to verify its flag, your memorandum suggests some interesting views in respect to the caution with which such a verification should be pursued, and such a responsibility exercised.

I do not understand that the French Government desires to limit this responsibility, or to change in any way that rule of international law by which in time of peace an honest merchantman is protected on the ocean from any visit, detention, or search whatever. Undoubtedly a ship of war may sometimes find a foreign merchant vessel so surrounded by suspicious circumstances as to induce the belief that she is sailing under false colours; and in such a case the ship of war may think it right to adopt some proper measures to verify the suspected flag. If upon inquiry its suspicions are realized, no one has any right to complain. But if the suspected vessel turns out to be an honest trader, there can be no doubt that a trespass has been committed on her rights, which may or may not be excusable, according to the peculiar circumstances under which it was committed.

The burden of proof in every such case must necessarily rest upon the party committing the error, who will be bound to show, not only that his suspicions were reasonably excited, but that he exercised due caution and care in respect to their verification.

To reverse this rule, and throw the burden of proof upon the suspected party, or to hold that a ship of war can, under any circumstances, treat an innocent merchantman of a foreign nation as a



those claims for redress which are sure to arise, whenever a merchant vessel of one country is improperly visited or detained by a public vessel of another country.

In the general features of these instructions, it is natural to suppose that the commercial nations of the world will be essentially in agreement. Your memorandum, for example, suggests that when a ship of war and merchant vessel meet on the high seas, the latter should not refuse to display her flag, and certainly such refusal, in the absence of any satisfactory explanation, would be a suspicious circumstance.

Other suspicious circumstances may exist at the same time, which may lead the ship of war to pursue the mode of verification pointed out in your memorandum; and if the case is one where any verification at all is to be pursued, the measures for this purpose suggested in your memorandum are calculated, it seems to me, to accomplish the object with the least possible difficulty. But both France and The United States agree that these measures, or any similar measures, can only be employed at the risk and peril of the party using them, who is bound to show, in every case of erroneous suspicion and visit, such extenuating circumstances as will reasonably satisfy the injured party.

To determine in advance precisely what circumstances may be regarded as a sufficient warrant for doubting the nationality of a merchant-vessel, appears to me quite impossible; and every case may perhaps be safely left to be determined by itself.

I have thus stated the general views of the President upon the subject of your memorandum, and I do not make a more detailed reply, because I am not quite sure whether I have correctly interpreted the views and wishes of your Government. To agree upon any plan of verification which would change the rule of international law, and authorize in advance the commission of a trespass, is a very different thing from merely assenting to certain modes of proceeding as being reasonable and proper in a given case. The former would be alike objectionable, I am persuaded, to France and The United States. The latter would be far less objectionable, and, as I have already said, the precautionary instructions of different nations to their naval commanders respectively, would not probably be very dissimilar in their general features.

If these instructions were interchanged among the Governments most interested in the subject, a sufficient degree of uniformity might possibly be obtained, without any special arrangement upon a detailed plan.

I avail, &c.

Count de Sartiges. LEWIS CASS.

(*Inclosure 3.*)—*General Cass to Count de Sartiges.*

SIR, *Washington, May* 12, 1859.

YOUR note of the 10th instant, in reference to the instructions which France has issued to its naval officers, relative to the mode of recognizing the nationality of merchant vessels meeting them at sea, has been received. In the communication which I addressed to you, under date of January 25, the general views of the President on this subject were fully stated, and I am glad to learn that these views are cordially sustained by the Government of France. On the 12th of March last, I received from Lord Napier a copy of the instructions on this subject, which were proposed to be given by the Government of Great Britain to the officers of Her Majesty's navy and which, I am informed by Lord Lyons, have since been issued. These instructions are similar in their character to those which accompanied your note of December last; and in further explanation of the views of the President concerning them, I inclose herewith a copy of a note this day addressed on the subject to Lord Lyons.

As soon as the instructions, there referred to, to the officers of the navy of The United States have been determined on, a copy of them will be forwarded to you for transmission to Paris.

I avail, &c.

Count de Sartiges. LEWIS CASS.

CORRESPONDENCE between Great Britain and United States, respecting the right of Sovereignty over the Island of San Juan.—1860.



jurisdiction of Washington territory over San Juan, and that the General goes on to state that he "is satisfied that any attempt of the British Commander to ignore the rights of the territory will be followed by deplorable results out of his power to control."

The copy of these orders reached me yesterday, in a letter from Rear-Admiral Baynes. I immediately transmitted a copy to The United States' Secretary of State, with a note begging that The United States' Government would not lose a moment in taking measures to avert the deplorable consequences which would, indeed, be only too likely to follow any disturbance of the settlement so wisely effected by General Scott. Of that note I do myself the honour to inclose a copy.

I have been in personal communication with General Cass on the subject to-day He says that he shall send me, as soon as it can be prepared, a written answer, which will be completely satisfactory to Her Majesty's Government. In the meantime, he authorizes me to inform your Lordship that The United States' Government regret and disavow General Harney's order.

I have urged the Government of The United States to send instantly, and in the most expeditious manner, the orders necessary to avert the evils which General Harney's reckless conduct has again rendered imminent. I shall, on my part, make every effort to ensure the Admiral's receiving, as soon as possible, the intelligence of the disavowal by this Government of General Harney's proceedings.

Lord J. Russell. LYONS.

(*Inclosure* 1.)—*Captain Pickett to Captain Bazalgette.*

SIR, *San Juan, April* 30, 1860.

I HAVE the honour to inform you that, in obedience to orders received from the Head-Quarters Department of Oregon, I have, to-day, relieved Captain Hunt, and assumed command of this post.

In accordance with orders emanating from the same source, I herewith inclose an extract from my letter of instructions.

With every desire that the cordial understanding existing between you and Captain Hunt shall continue to be maintained between ourselves. I am, &c.

Captain Bazalgette. G. E. PICKETT.

(*Inclosure* 2.)—*Assistant Adjutant-General Pleasonton to Captain Pickett.*

Head-Quarters, Department of Oregon, Fort Vancouver,
(Extract.) *Washington Territory, April* 10, 1860.

A COPY of which you will furnish Captain Bazalgette, for the information of Rear-Admiral Baynes.

1. Lieutenant-General Scott has left no orders or instructions with the General commanding to grant a joint military occupation of San Juan Island with British troops, neither has any authority been delegated by the Government of The United States to the General to offer or accept such occupation of that island. The offer made by General Scott, when n command here, was not accepted by Governor Douglas at the time, and consequently concluded that transaction. No arrangement has been made since to renew it within the knowledge of the General commanding.

2. The British authorities having submitted the assurance to General Scott that no attempt would be made by them to dislodge by force The United States' troops on San Juan Island, they were permitted to land troops for similar purpose to which your command was designed in the original orders conveyed to you in July last, viz., the protection of our citizens from Indians, both native and foreign.

In connexion with this service the General commanding takes occasion to present you to Admiral Baynes and the officers with whom you will be brought in contact, as an officer possessing his highest confidence, that nothing will be omitted in maintaining a frank and generous intercourse, in all matters coming within your powers, to establish a practical solution of the present misunderstandings, which shall prove honourable and satisfactory to all parties until a final settlement is attained by the two Governments.

3. Under the Organic Act of the Congress of The United States

will notify the officer placed there by Admiral Baynes, to enable him to propose some arrangement satisfactory to his instructions, as well as those of the civil officer. Let it be understood, in case of disagreement of these parties, that no action is to be taken until the case has been referred to Admiral Baynes and the Governor of Washington territory respectively.

These suggestions will be acceptable to the conditions which govern the territorial authorities of Washington, while satisfying the obligations of the military service to their own as well as the civil laws of the country, and it is fair to presume they will be adopted by Admiral Baynes, since the tenor of his instructions to Captain Bazalgette is sufficiently liberal to justify the conclusion.

Captain Pickett. —. PLEASONTON.

(*Inclosure* 3.)—*Lord Lyons to General Cass.*

SIR, *Washington, June* 6, 1860.

I HAVE just received from Rear-Admiral Baynes, Commander-in-chief of Her Majesty's Naval Forces in the Pacific, a copy of the orders issued to the Commanding Officer of The United States' Troops in San Juan by General Harney, and communicated by the General's direction to the officer in command of Her Majesty's troops in the same island. I do myself the honour to inclose a copy of the orders in question, and I earnestly beg that The United States' Government will take them immediately into consideration.

It would be superfluous to remark upon the inconsistency of the whole tenor and spirit of these orders with the satisfactory arrangement made by General Scott in November last. But there is one point to which I cannot but call the particular attention of the Government of The United States.

General Harney directs the officer in command of The United States' detachment to acknowledge and respect the civil jurisdiction of Washington territory over the Island of San Juan, and he goes on to say that he "is satisfied that any attempt of the British Commander to ignore this right of the territory will be followed by deplorable results out of his power to control."

I will contrast with this order the following passage taken from a letter addressed by General Scott to Governor Douglas on the 9th November last:

"In the same spirit, I had earlier determined to instruct our commanding officer on the island to allow no person claiming to be a functionary of Washington territory to interfere with any British subject residing or happening to be on the same island whilst it shall remain in dispute between our respective Governments."

To this passage I will add an extract from the orders given by

General Scott to The United States' officer commanding on San Juan, and communicated in the same letter by General Scott to General Douglas:

"The General-in-chief wishes it to be remembered that the sovereignty of the island (San Juan) is still in dispute between the two Governments, and until definitively settled by them that British subjects have equal rights with American citizens on the island."

It will no doubt be in your recollection that a copy of the letter to General Douglas, which I have quoted, was appended to the instructions given by General Scott to The United States' officer on San Juan; that a copy of it was transmitted to General Harney "for his information and guidance" by General Scott in a letter bearing the same date; and that General Scott at the same time stated to General Harney that he "wished it to be remembered that the sovereignty of the island was still in dispute between the two Governments, and, until definitively settled by them, that British subjects had equal rights with American citizens on the island."

It is unnecessary for me to say anything more to show that the recent orders of General Harney are inconsistent with the arrangement made by General Scott, approved by the President, and accepted by Her Majesty's Government. Under that arrangement tranquillity had been maintained at San Juan for 6 months, and cordial relations had subsisted between the British and American authorities in the neighbourhood. I am confident that the Government of The United States will lose not a moment in taking measures to avert the deplorable consequences which would indeed be only too likely to follow any disturbance of the settlement so justly and wisely effected by General Scott. I have, &c.



(*Inclosure.*)—*General Cass to Lord Lyons.*

MY LORD, *Washington, June* 8, 1860.

I HAVE received your Lordship's communication of the 6th instant, inclosing copies of orders issued by General Harney to the commanding officer of The United States' troops on the Island of San Juan dated on the 10th of April last, and communicated by the General's direction to the officer in command of Her Majesty's troops on the same island, and have lost no time in bringing the subject to the attention of the President.

I am now instructed to inform you that the arrangement entered into by General Scott, in the month of October 1859, in order to prevent any collision upon the Island of San Juan between the American and British authorities pending the negotiations between the two Governments, was strictly in pursuance of a previous arrangement which was made with Mr. Crampton by the Secretary of State of The United States in July, 1855, and met the full approval of this Government. The orders of General Harney, to which his attention has been called for the first time by the note of your Lordship, and which appear to be in violation of the arrangement of General Scott, have been read, therefore, by the President, both with surprise and regret. It is earnestly hoped that, upon a full explanation of all the circumstances attending them, it may be found that they were not intended to bear the construction which seems naturally to belong to them, and that in any event they will lead to no collision between the American and British authorities on the island. To prevent this, as far as possible, instructions will be immediately sent to the Commander of The United States' troops in that region revoking the orders of General Harney, and giving full effect to the arrangement of General Scott. A strict inquiry will also be instituted into the conduct of General Harney, with a view to such measures on the subject as may be found necessary, and for this purpose he has been recalled from his command, and ordered to report at Washington. I have, &c.

Lord Lyons. LEW. CASS.

*CORRESPONDENCE respecting the Reception of Political Refugees on board Her Majesty's Ships of War.**—1849–1860.

No. 1.—*Mr. Elliot to Lord J. Russell.*—(*Received March* 29.)

MY LORD, *Naples, March* 23, 1860.

AS I perceive that a discussion has taken place in the House of Lords with regard to the reception of political fugitives on board

* Laid before Parliament, 1860.

Her Majesty's men-of-war, it is right that I should inform your Lordship that to the best of my belief no such person has been received during the last six months.

Although the newspapers announce the arrival of the fleet, Her Majesty's ship *Orion* is the only ship at present at Naples, and, in the conversations I have had with Captain Frere, I have expressed the opinion that it would be extremely undesirable to give out that political refugees could find a refuge on board his ship; but that in the event of such a person presenting himself he ought to be guided by the circumstances of the particular case.

In the present excited state of Sicily an announcement that political refugees could find a safe asylum on board Her Majesty's ships would possibly be nearly sufficient to produce an outbreak; but, on the other hand, it must be recollected that while a Government and its agents are persecuting individuals in defiance both of law and justice, the persons flying from the police may fairly be considered as somewhat in the same position as those who are escaping from the lynch law of a mob, and I doubt whether any captain would drive back into the fangs of his pursuers a person who had once got on board and appealed for protection.

As far as I have ascertained the captains of Her Majesty's ships have acted with the utmost prudence and discretion, and when asked, as some have been, whether they would grant an asylum to political refugees, their reply has been that their sole duty was the protection of British interests.

I have, &c.

Lord J. Russell.

HENRY ELLIOT.

No. 2.—Mr. Hammond to the Secretary to the Admiralty.

Sir, *Foreign Office, March 29, 1860.*

[redacted]

No. 3.—The Sec^y. to the Admiralty to Mr. Hammond.—(Rec Mar. 31.)

SIR, *Admiralty, March 31, 1860.*

IN reply to your letter of the 29th instant, requesting to be informed of the nature of the general instructions issued for the guidance of the officers of Her Majesty's ships as to the reception on board of such political refugees as might fly thither for refuge, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Lord John Russell, that no precise instructions on the subject have ever been issued for the general guidance of officers in the reception of political refugees; nor does it appear to my Lords to be expedient to lay down general regulations, which could rarely be sufficient under all the various contingences which may arise. It must therefore be necessary to rely on the judgment and discretion of officers in command, according to the circumstances of each individual case.

The last instruction on the subject appears to have been issued in accordance with the directions contained in a letter from Mr. Addington of the 4th of August, 1849, conveying the opinion of Lord Palmerston in reference to the state of affairs at that time existing at Naples; and my Lords have no reason to doubt that a sound discretion will be exercised by the several officers in command, who are at all times enjoined to avoid all possible cause of offence to the authorities of the ports which they may visit, and to respect the established rights, customs, and regulations of such places. Their principal duties must be, undoubtedly, to afford protection to British subjects and to British interests; and any shelter which might be afforded to political refugees must, upon grounds of humanity, be exceptional in every instance.

I am, &c.

E. Hammond, Esq. C. PAGET.

No. 4.—Mr. Addington to the Secretary to the Admiralty.

SIR, *Foreign Office, August 4, 1849.*

I HAVE laid before Viscount Palmerston your letter of the 30th of July last, requesting, by direction of the Lords Commissioners of the Admiralty, his Lordship's opinion on a question which has recently occurred at Naples, as to the extent to which British ships-of-war in a foreign port are entitled to receive on board and shelter the subjects of a foreign Government who may be apprehensive of being persecuted if they remain on shore.

Viscount Palmerston directs me to request that you will acquaint the Board of Admiralty that his Lordship is of opinion that it would not be right to receive and harbour on board a British ship-of-war any person flying from justice on a criminal charge, or who was

escaping from the sentence of a court of law. But a British man-of-war has always and everywhere been considered a safe place of refuge for persons of whatever country or party who have sought shelter under the British flag from persecution on account of their political conduct or opinions; and this protection has been equally afforded, whether the refugee was escaping from the arbitrary acts of a monarchical Government or from the lawless violence of a Revolutionary Committee.

There seems to be nothing in the present state of affairs at Naples or in Sicily which ought to make a British ship-of-war stationed in a Neapolitan or in a Sicilian port an exception to the general rule; and therefore, although the commander of such ship-of-war should not seek out or invite political refugees, yet he ought not to turn away nor to give up any who may reach his ship and ask admittance on board. Such officer must, of course, take care that such refugees shall not carry on, from on board his ship, any political correspondence, with their partisans on shore, and he ought to avail himself of the earliest opportunity to send them to some place of safety elsewhere.

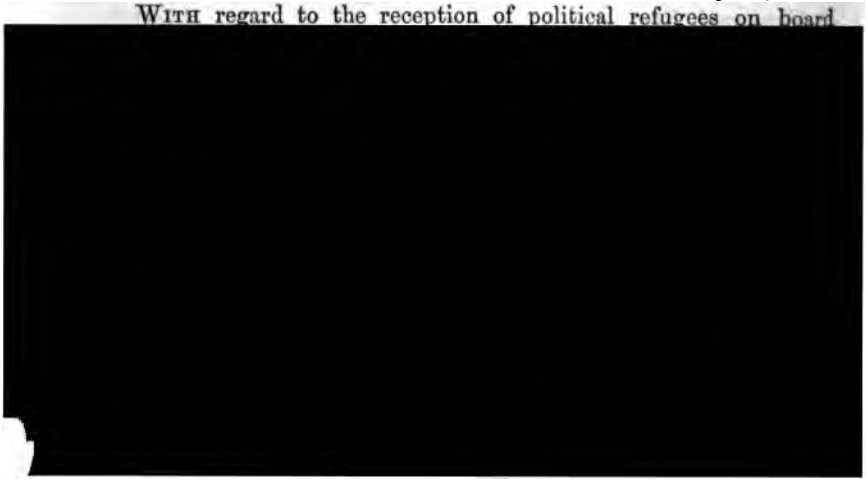
Viscount Palmerston sees no reason, however, why the fact of a British officer having exercised this act of usual hospitality, should entitle the Government of the country to order him out of the port if the interests of Her Majesty's service should require that he should remain there. I am, &c.

The Secretary to the Admiralty. H. U. ADDINGTON.

No. 5.—Mr. Hammond to the Secretary to the Admiralty.

(Extract.) *Foreign Office, May* 10, 1860.

WITH regard to the reception of political refugees on board



TREATIES, &c. between Great Britain and Native Chiefs and States on the West Coast of Africa, relative to the Slave Trade, Commerce, &c.—1827—1860.

(1.)—TREATY *of Cession and Slave Trade with Cumbo.—Bathurst, June* 4, 1827.

TREATY between his Excellency Major-General Sir Neil Campbell, C.B., &c., Governor-in-chief of Her Majesty's possessions on the Western Coast of Africa, &c., in behalf of His Majesty the King of Great Britain, and Tomany, King of Cumbo, for themselves, their heirs and successors.

The Treaty in which the Island of St. Mary's was formerly given up to the British Government not being forthcoming, it is hereby agreed:

I. To prohibit and abolish the purchase and sale of slaves.

II. That the island of St. Mary's, the Cape, and the boundary bordering on other States to the southward and eastward of Coomba shall be open for every branch of commerce between the subjects of His Majesty the King of Great Britain and the natives of Cumba or any other kingdoms.

III. That the Island of Banjola, now called St. Mary's, and the adjoining territory, may be possessed by the Government and subjects of Great Britain for building and making farms in such places as are not actually possessed by any other person at the time, arranging the boundaries with the Alcaide of Baccow.

IV. That the King of Cumbo for the time shall receive 113 bars yearly for the possession hereby ceded to His Majesty the King of Great Britain, one-half to be paid every 6 months, upon the 30th day of June and the 31st day of December; to be paid in dollars, amounting to 50 each payment, or 100 dollars per year. This Treaty is hereby confirmed by the Undersigned at Bathurst, this 4th day of June, 1827.

N. CAMPBELL, *Governor.*

his
TOOMANY ⋈, *King of Cumbo.*
mark.

MARMADY MARUN, *Alcaide of Baccow, and*
AMADY, *son of the Alcaide of Baccow.*

Witnesses:
AL. M. L. FRASER, *Capt. and Commdt.*
C. M. BURROWS, *Actg. Mily. Secty.*

(1.)—TREATY *of Commerce with Dubreka.—Dubreka, October* 31, 1848.

BY the authority of his Excellency Norman William Macdonald,

Esq., Governor-General and Commander-in-chief of Her Majesty's colony of Sierra Leone and its dependencies, conveyed to me by letter dated Government House, Sierra Leone, 13th January, 1848, I have this day entered into the following arrangement with Dembah, King of Dubreka, and the Khaloon Bahgers, for the anchorage and waterage dues which shall be paid to him by all British registered vessels which may visit the river in his dominions for purpose of lawful commerce.

That is to say, that from this day forth every British registered vessel entering into and anchoring in the River Dubreka, or any of the water running into that river, the sum of 12 dollars shall be paid by the captain or supercargo of such vessel to King Dembah or his assigns as anchorage and waterage dues for every clear or new voyage such vessel may make.

It is distinctly understood that the above anchorage dues are not to be claimed from the small coasting-vessels belonging to the merchants resident in Sierra Leone and its dependencies, and which are registered in that colony.

This arrangement or agreement to form a supplemental Article to the Treaty of Commerce and Friendship entered into between Nathaniel Isaacs, Esq., and Captain James Waddell, of 3rd West India Regiment, Commissioners of his Excellency Norman William Macdonald, on behalf of Her Majesty Queen Victoria and King Dembah, dated 2nd of November, 1847.*

Done at Dubreka, the residence of King Dembah, this 31st day of October, 1848, by virtue of the authority vested in me by his Excellency Norman William Macdonald, on behalf of Her Majesty Victoria, Queen of Great Britain and Ireland.

B. CAMPBELL.

his



United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., and Lamina Towle, Chief of the Naloes, and others his Chiefs.

I. There shall be peace between the subjects of the Queen of England and the subjects of the said Chiefs; and should any difference or dispute accidentally arise between them, it shall be referred to the Governor of Sierra Leone, and his decision thereon shall be final and binding upon all parties.

II. The persons and property of all British subjects shall be inviolate, and no semo, country law, or custom shall be put in force against them, neither shall they, if aggrieved, have recourse to any semo, country law, or custom; they must lay their grievance before the Government of Sierra Leone.

III. British subjects are strictly prohibited from breaking the country laws, from interfering in any way with the disputes and quarrels of the native Chiefs or their subjects, and from aiding, assisting, countenancing, or supporting them, directly or indirectly, in their wars against each other, either by supplying them with arms, ammunition, or any warlike stores whatever, or with the means of procuring them.

IV. The Slave Trade is for ever abolished within the territories of the Chiefs parties hereto, and their subjects are hereby prohibited from being engaged in that traffic directly or indirectly.

V. No persons whatever, Europeans or others, are to be permitted to establish themselves within the territories of the Chiefs parties hereto for the purpose of carrying on or engaging in the Slave Trade. And the said Chiefs hereby empower the officers and forces of the Queen of England to expel all persons violating this clause from the territories of the said Chiefs by force, if need be, and to burn or otherwise destroy their barracoons and slave factories, and to seize all boats, canoes, or vessels of any description found engaged either directly in the Slave Trade, or in aiding and abetting that traffic within the waters belonging to the said Chiefs.

VI. The subjects of the Queen of England are hereby guaranteed the right of free and unrestricted legitimate traffic within the territories of the said Chiefs, and all rights and privileges heretofore enjoyed by them are hereby recognized and confirmed; they may buy or rent lands and houses, which shall not be entered upon without their free will and consent.

VII. All privileges conferred upon the subjects of any foreign State or Power shall be considered as being equally granted to British subjects; and no privileges or rights shall be secured to the subjects of a foreign State without being notified to the Governor of Sierra Leone, in order to such privilege or right being extended to the subjects of Her Majesty.

VIII. Her Majesty may appoint an Agent to visit or reside in

the territories of the Chiefs for the protection of her subjects and for securing due adherence to the stipulations of this Treaty, and the person and property of such Agent shall be inviolate, and he shall receive all honour and protection.

IX. All complaints against British subjects must be made by Her Majesty's Agent, if there be one, or to the Governor of Sierra Leone, in either case accompanied by sufficient proof, in order that justice may be impartially done between all parties.

X. The ministers of the Christian religion shall be permitted to reside and exercise their calling within the territories of the said Chiefs, and to establish schools for the education and proper training up of the youth of both sexes, and they are to receive all honour and protection.

XI. The roads throughout the territories of the said Chiefs shall be kept open; they are not to be "semoed" or shut on any pretext whatever; and all parties, British subjects, native strangers, and others, are to be allowed to travel thereon to and from the colony of Sierra Leone or elsewhere, free and unmolested.

XII. The canoes and boats of the said Chiefs and of their subjects visiting the colony for the purposes of trade are placed upon the same footing as the boats of the colony, and are exempted from all taxes; and the subjects of the said Chiefs and their property, while peaceably trading to or residing within the colony, shall receive the fullest protection.

XIII. The Chiefs who are parties to this Treaty shall receive from each and every British vessel of 25 tons and upwards visiting their territories the sum of 16 dollars; from each and every decked vessel of above 5 tons and under 25 tons burthen the sum of 10 dollars, which shall be considered in full for anchorage and waterage dues, with the privilege of taking in wood and water. All British



XV. The waterage and anchorage dues hereby stipulated to be paid to the Chiefs by this Treaty shall be considered a full consideration for the fulfilment of the terms and conditions thereof by the Chiefs aforesaid.

XVI. The Queen of England shall have the right to demand the surrender of criminals, being British subjects, guilty of any offence cognizable by the laws of England, for the purpose of being tried in such British colony as Her Majesty the Queen of England may think fit to appoint; and the Chiefs parties to this Treaty do hereby agree to surrender all British subjects who may be charged with any offence as aforesaid upon demand being made by some competent authority.

XVII. All merchandize imported in British vessels within the dominion of the Chiefs parties to this Treaty shall be exempted from the payment of any duty whatever, and in like manner the productions of the territories of any of the Chiefs parties to this Treaty and imported into the colony of Sierra Leone shall be (subject to the approval of the Governor and Council of the said colony) exempted from all import or other duties, which productions are as follows; that is to say, gold, ivory, rice, ox or other hides, bees'-wax, palm oil, bene-seed, ground nuts (clean and in rough), coffee, gum copal, timber, palm nuts, cotton, indigo, Guinea corn, or any other articles which from and after this date may be produced or cultivated within the territories of the aforesaid Chiefs.

XVIII. This Treaty shall be proclaimed immediately on its being concluded and signed, and be made law throughout the territories of the said Chief or Chiefs, which for the better maintenance of peace and the avoidance of all causes of difference and dispute are hereby fixed and declared by the said Chiefs to be as follows; that is to say, from the mouth or entrance of the Rio Nunez to the town of Ropass.

Signed and sealed at Caniope, this 21st day of March, in the year of Our Lord 1851, and of Her Majesty's reign the 14th.

J. F. SMYTH, *Commissioner.*
ROBERT ARMSTRONG, *Commissioner.*
B. CAMPBELL, *Commissioner.*
LAMINAH TOWLE, *Chief.*
URAH TOWL, *Chief.*
DONKA MORGAN his ⋈ mark, *Chief.*

In the presence of
T. M. REEVE, *Actg. Com. H.M.St.* "*Volcano*,"
and two others.

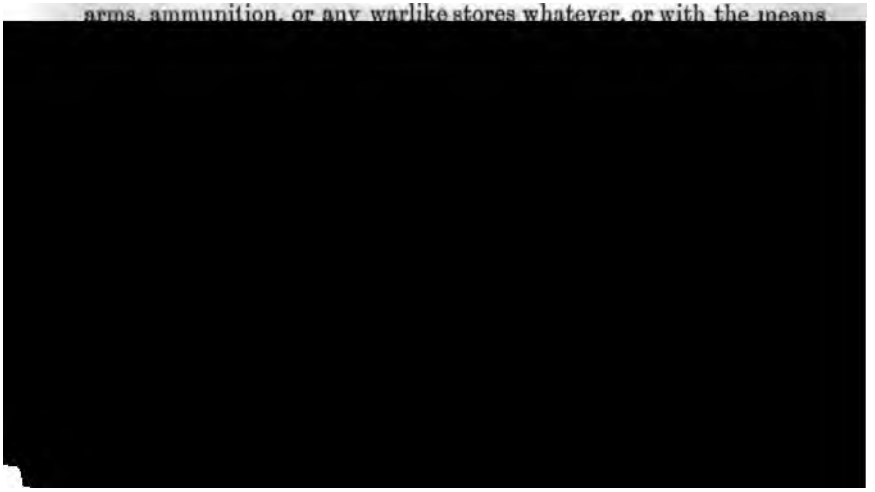
(8.)—TREATY *of Peace, Friendship, Commerce, Slave Trade, and Navigation with Macbatee.—Macbatee, December* 26, 1851.

TREATY between Joseph Eugene Dillet, Esq., of the Civil Service of the colony of Sierra Leone, Nathaniel Isaacs, Esq., and FitzMeade T. Dennis, Esq., Staff-Assistant Surgeon to Her Majesty's Forces, Commissioners duly authorized and empowered by his Excellency Norman William Macdonald, Captain-General and Governor-in-chief in and over the colony of Sierra Leone and its dependencies, Vice-Admiral, Chancellor, and Ordinary of the same, for and in behalf of Her Majesty Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, &c., and Bey Farima, King of Macbatee, in the Great Scarcies River.

I. There shall be peace between the subjects of the Queen of England and the subjects of the said Bey Farima, King of Macbatee; and should any difference or dispute accidentally arise between the said Bey Farima and any other Chief in his dominions, it shall be referred to the Governor of Sierra Leone, and his decision thereon shall be final and binding upon all parties concerned.

II. The persons and property of all British subjects shall be inviolate, and no semo, country law, or custom shall be put in force against them, neither shall they, if aggrieved, have recourse to any semo, country law, or custom; they must lay their grievance before the Government of Sierra Leone.

III. British subjects are strictly prohibited from breaking the country laws, from interfering in any way with the disputes and quarrels of the native Chiefs or their subjects, and from aiding, assisting, countenancing, or supporting them, directly or indirectly, in their wars against each other, either by supplying them with arms, ammunition, or any warlike stores whatever, or with the means



teed the right of free and unrestricted legitimate traffic within the territories of the said King, and all rights and privileges heretofore enjoyed by them are hereby recognised and confirmed. They may buy or rent lands and houses, which shall not be entered upon without their free will and consent.

VII. All privileges conferred upon the subjects of any foreign State or Power shall be considered as being equally granted to British subjects; and no privileges or rights shall be secured to the subjects of a foreign State without being notified to the Governor of Sierra Leone, in order to such privilege or right being extended to the subjects of Her Majesty.

VIII. Her Majesty may appoint an agent to visit or reside in the territories of the said King for the protection of her subjects, and for securing due adherence to the stipulations of this Treaty, and the person and property of such agent shall be inviolate, and he shall receive all honour and protection.

IX. All complaints against British subjects must be made to Her Majesty's agent, if there be one, or to the Governor of Sierra Leone, in either case accompanied by sufficient proof, in order that justice may be impartially done between all parties.

X. The ministers of the Christian religion shall be permitted to reside and exercise their calling within the territories of the said King, and to establish schools for the education and proper training up of the youths of both sexes, and they are to receive all honour and protection.

XI. The roads throughout the territories of the said King shall be kept open; they are not to be "semoed" or shut on any pretext whatever, and all parties, British subjects, native strangers, and others, are to be allowed to travel thereon, to and from the colony of Sierra Leone or elsewhere, free and unmolested.

XII. The canoes and boats of the said King and of his subjects visiting the colony of Sierra Leone for the purposes of trade are placed upon the same footing as the boats of the colony, and are exempted from all taxes; and the subjects of the said King and their property, while peaceably trading to or residing within the colony, shall receive the fullest protection.

XIII. The bodies of British seamen or other non-resident British subjects who may die within the territories of the said King shall have the right of interment on payment of 6 dollars to the said King, which sum shall be in full of all burial fees; and all resident British subjects dying within the territories of the said King party to this Treaty shall be interred on payment of the customary tribute or offering, the amount of which shall be arranged and determined between the friends of the deceased and the said King or his repre-

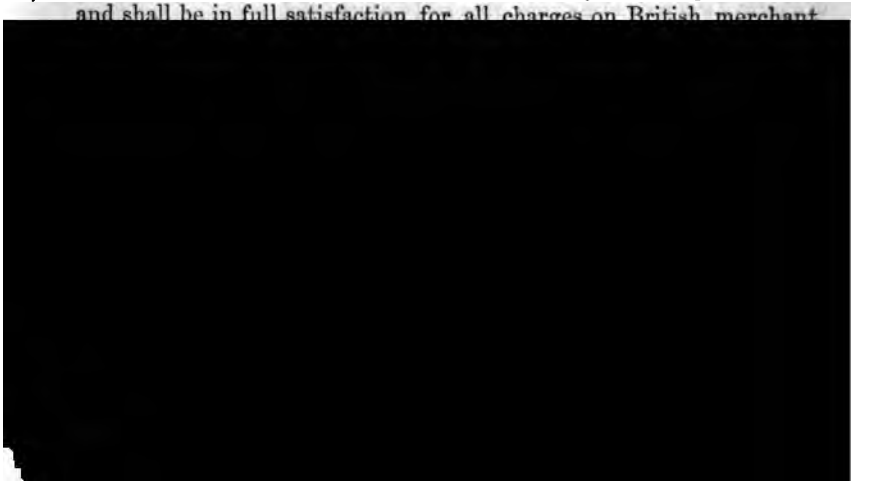
sentatives. The graves of persons so interred shall be secure from violation.

XIV. The Queen of England shall have the right to demand the surrender of criminals, being British subjects, guilty of any offence cognizable by the laws of England, for the purpose of being tried in such British colony as Her Majesty the Queen of England may think fit to appoint; and the King party to this Treaty does hereby agree to surrender all British subjects who may be charged with any offence as aforesaid, upon demand being made by some competent authority.

XV. All merchandize imported in British vessels within the dominion of the King party to this Treaty shall be exempted from the payment of any duty whatever, and in like manner the productions of the territories of the said King party to this Treaty imported into the colony of Sierra Leone shall be (subject to the approval of the Governor and Council of the said colony) exempted from all import or other duties.

XVI. In consideration of the foregoing stipulations of this Treaty being agreed upon and strictly adhered to on the part of the King aforesaid and his successors, his Excellency Norman William Macdonald, Captain-General and Governor-in-Chief of the colony of Sierra Leone, agrees for himself and successors, on the part of Her Majesty the Queen of England, to pay or cause to be paid annually to the said King and his successors the customs hereinafter mentioned and set forth, viz.—200 bars. The above bars to be computed by the scale of bars in the schedule hereunto annexed.

XVII. The amount stipulated to be paid annually to the said King by this Treaty shall be considered a full compensation for the fulfilment of the terms and conditions thereof by the King aforesaid, and shall be in full satisfaction for all charges on British merchant



of January, in the year of Our Lord 1852, and of Her Majesty's reign the 15th.

J. E. DILLET, *Commissioner.*
N. ISAACS, *Commissioner.*
F. M. T. DENNIS, *Commissioner.*
BEY FARIMA (signed in Arabic).

In the presence of
ADAM ALI, and 2 others (signed in Arabic).

SCHEDULE.—*Scale of* 200 *Bars.*

	Bars.
4 pieces of blue baft	40
4 do. of white baft	40
4 do. of satin stripes	48
86 lbs. of tobacco	50
10 gallons of rum in 4 jars	22
	200

(4.)—TREATY *of Peace, Friendship, Slave Trade, Commerce and Navigation with Kambia.—Kambia, December*, 26, 1851.

TREATY between Joseph Eugene Dillet, Esq., of the Civil Service of the colony of Sierra Leone, Nathaniel Isaacs, Esq., and Fitz-Meade T. Dennis, Esq., Staff Assistant Surgeon to Her Majesty's Forces, Commissioners duly authorized and empowered by his Excellency Norman William Macdonald, Captain-General and Governor-in-chief in and over the colony of Sierra Leone and its dependencies, Vice-Admiral, Chancellor, and Ordinary of the same, for and in behalf of Her Majesty Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., and Sattan Lahai, King of Kambia, in the Great Scarcies River.

I. There shall be peace between the subjects of the Queen of England and the subjects of the said Sattan Lahai, King of Kambia; and should any difference or dispute accidentally arise between the said Sattan Lahai and any other Chief in his dominions, it shall be referred to the Governor of Sierra Leone, and his decision thereon shall be final and binding upon all parties concerned.

II. The persons and property of all British subjects shall be inviolate, and no semo, country law, or custom, shall be put in force against them, neither shall they, if aggrieved, have recourse to any semo, country law, or custom; they must lay their grievance before the Government of Sierra Leone.

III. British subjects are strictly prohibited from breaking the

country laws, from interfering in any way with the disputes and quarrels of the native Chiefs or their subjects, and from aiding, assisting, countenancing, or supporting them, directly or indirectly, in their wars against each other, either by supplying them with arms, ammunition, or any warlike stores whatever, or with the means of procuring them.

IV. The Slave Trade is for ever abolished within the territories of the said King party hereto, and his subjects are hereby prohibited from being engaged in that traffic directly or indirectly.

V. No persons whatever, Europeans or others, are to be permitted to establish themselves within the territories of the said King party hereto for the purpose of carrying on or engaging in the Slave Trade; and the said King hereby empowers the officers and forces of the Queen of England to expel all persons violating this clause from the territories of the said King by force, if need be, and to burn or otherwise destroy their barracoons and slave factories, and to seize all boats, canoes, or vessels of any description found engaged either directly in the Slave Trade or in aiding and abetting that traffic within the waters belonging to the said King.

VI. The subjects of the Queen of England are hereby guaranteed the right of free and unrestricted legitimate traffic within the territories of the said King; and all rights and privileges heretofore enjoyed by them are hereby recognized and confirmed. They may buy or rent lands and houses, which shall not be entered upon without their free will and consent.

VII. All privileges conferred upon the subjects of any foreign State or Power shall be considered as being equally granted to British subjects; and no privileges or rights shall be secured to the subjects of a foreign State without being notified to the Governor of Sierra Leone, in order to such privilege or right being extended to

XI. The roads throughout the territories of the said King shall be kept open; they are not to be "semoed" or shut on any pretext whatever; and all parties, British subjects, native strangers, and others, are to be allowed to travel thereon, to and from the colony of Sierra Leone or elsewhere, free and unmolested.

XII. The canoes and boats of the said King and of his subjects visiting the colony of Sierra Leone for the purposes of trade are placed upon the same footing as the boats of the colony, and are exempted from all taxes; and the subjects of the said King and their property, while peaceably trading to or residing within the colony, shall receive the fullest protection.

XIII. The bodies of British seamen or other non-resident British subjects who may die within the territories of the said King shall have the right of interment on payment of 6 dollars to the said King, which sum shall be in full of all burial fees; and all resident British subjects dying within the territories of the said King party to this Treaty shall be interred on payment of the customary tribute or offering, the amount of which shall be arranged and determined between the friends of the deceased and the King or his representatives. The graves of persons so interred shall be secure from violation.

XIV. The Queen of England shall have the right to demand the surrender of criminals, being British subjects, guilty of any offence cognizable by the laws of England, for the purpose of being tried in such British colony as Her Majesty the Queen of England may think fit to appoint; and the King party to this Treaty does hereby agree to surrender all British subjects who may be charged with any offence as aforesaid, upon demand being made by some competent authority.

XV. All merchandize imported in British vessels within the dominion of the King party to this Treaty shall be exempted from the payment of any duty whatever; and in like manner the productions of the territories of the said King party to this Treaty imported into the colony of Sierra Leone shall be (subject to the approval of the Governor and Council of the said colony) exempted from all import or other duties.

XVI. In consideration of the foregoing stipulations of this Treaty being agreed upon and strictly adhered to on the part of the King aforesaid and his successors, his Excellency Norman William Macdonald, Captain-General and Governor-in-chief of the colony of Sierra Leone, agrees for himself and successors, on the part of Her Majesty the Queen of England, to pay, or cause to be paid annually to the said King and his successors the customs hereinafter mentioned and set forth, viz., 200 bars. The above bars to be computed by the scale of bars in the schedule hereunto annexed.

XVII. The amount stipulated to be paid annually to the said King by this Treaty shall be considered a full compensation for the fulfilment of the terms and conditions thereof by the King aforesaid, and shall be in full satisfaction for all charges on British merchant shipping resorting to the waters of the territories of the said King for the purposes of trade, with the free and unrestricted right to wood and water.

XVIII. This Treaty shall be proclaimed immediately on its being concluded and signed, and be made law throughout the territories of the said King, which, for the better maintenance of peace and the avoidance of all causes of difference and disputes, are hereby fixed and declared to be as follows, that is to say:—From the town of Kambia, including the south bank of the Great Scarcies River in the front of the town, to Fouta in the interior, including the paths from and to the above-named places called Kasse, Moonoo, Masamballa, Kotonko, Rosoosoo, Tambacca, and Tamisso.

Signed and sealed at Kambia, Great Scarcies River, this 26th day of December, in the year of Our Lord 1851, and of Her Majesty's reign the 15th.

J. E. DILLET, *Commissioner.*
N. ISAACS, *Commissioner.*
F. M. T. DENNIS, *Commissioner.*
SATTAN LAHAI (signed in Arabic).

In the presence of
LAIMENA SAMPA, and 2 others (signed in Arabic).

SCHEDULE.—*Scale of* 200 *Bars.*

	Bars.
4 pieces of blue baft	40
4 do. of white baft	40
4 do. of satin stripes	48

[redacted]

And whereas the following clause was omitted to be inserted therein, it is now agreed upon, that the same should be inserted as a supplementary clause to the aforesaid Treaty:

That the amount stipulated and set forth in the Treaty above referred to, viz., 400 bars, shall be (and was so understood at the time of making the Treaty) considered in full satisfaction for all charges upon British merchant shipping resorting to the waters of the territories of the said Quia Foday for the purpose of lawful trade, with the free and unrestricted right to wood and water.

Signed, sealed, and delivered at the town of Mellicourie, this 27th day of December, in the year of our Lord 1851.

QUIA FODAY.

In the presence of
F. M. T. DENNIS.
YABA DEMBA MOODIE (signed in Arabic).
SERI SARDIKKEE (signed in Arabic).

(6.)—TREATY *of Peace, Friendship, and Commerce with Kaffer Bulloms.—Freetown, August* 26, 1852.

TREATY concluded between his Excellency Norman William Macdonald, Captain-General and Governor-in-chief in and over the colony of Sierra Leone and its dependencies, Vice-Admiral, Chancellor, and Ordinary of the same for and in behalf of Her Majesty Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c.; Nain Sugo, the Bey Sherbro or King of the Kaffer Bulloms, for himself and successors, by and with the advice and consent of and in the presence of the old Chiefs and Headmen of the Kaffer Bullom country, by whom he has been elected Bey Sherbro, and who are witnesses hereto in his behalf.

ART. I. There shall be peace between the subjects of the Queen of England and the subjects of the said Nain Sugo, King of the Kaffer Bulloms; and should any difference or dispute accidentally arise between the said Nain Sugo, King of the Kaffer Bulloms, and any other Chief in his dominions, it shall be referred to the Governor of Sierra Leone, and his decision thereon shall be final and binding upon all parties concerned.

II. The persons and property of all British subjects shall be inviolate, and no semo, country law, or custom shall be put in force against them; neither shall they, if aggrieved, have recourse to any semo, country law, or custom; they must lay their grievance before the Government of Sierra Leone.

III. British subjects are strictly prohibited from breaking the country laws, from interfering in any way with the disputes and

quarrels of the native Chiefs or their subjects, and from aiding, assisting, countenancing, or supporting them, directly or indirectly, in their wars against each other, either by supplying them with arms, ammunition, or any warlike stores whatever, or with the means of procuring them.

IV. The Slave Trade is for ever abolished within the territories of the said King party hereto, and his subjects are hereby prohibited from being engaged in that traffic directly or indirectly.

V. No persons whatever, Europeans or others, are to be permitted to establish themselves within the territories of the said King party hereto for the purpose of carrying on or engaging in the Slave Trade; and the said King hereby empowers the officers and forces of the Queen of England to expel all persons violating this clause from the territories of the said King by force, if need be, and to burn or otherwise destroy their barracoons and slave factories, and to seize all boats, canoes, or vessels of any description found engaged either directly in the Slave Trade or in aiding and abetting that traffic within the waters belonging to the said King.

VI. The subjects of the Queen of England are hereby guaranteed the right of free and unrestricted legitimate traffic within the territories of the said King; and all rights and privileges heretofore enjoyed by them are hereby recognized and confirmed. They may buy or rent land and houses, which shall not be entered upon without their free will and consent.

VII. All privileges conferred upon the subjects of any foreign State or Power shall be considered as being equally granted to British subjects; and no privileges or rights shall be secured to the subjects of a foreign State without being notified to the Governor of Sierra Leone, in order to such privilege or right being extended to the subjects of Her Majesty.



be kept open; they are not to be "removed" or shut on any pretext whatever; and all parties, British subjects, native strangers, and others, are to be allowed to travel thereon, to and from the colony of Sierra Leone or elsewhere, free and unmolested.

XII. The canoes and boats of the said King and of his subjects visiting the colony of Sierra Leone for the purposes of trade are placed upon the same footing as the boats and canoes of the colony, and are exempted from all taxes; and the subjects of the said King and their property, while peaceably trading to or residing within the colony, shall receive the fullest protection.

XIII. The bodies of British seamen or other non-resident British subjects who may die within the territories of the said King shall have the right of interment, on payment of 6 dollars to the said King, which sum shall be in full of all burial fees; and all resident British subjects dying within the territories of the said King party to this Treaty shall be interred on payment of the customary tribute or offering, the amount of which shall be arranged and determined between the friends of the deceased and the King or his representatives. The graves of persons so interred shall be secure from violation.

XIV. The Queen of England shall have the right to demand the surrender of criminals, being British subjects or liberated Africans, or others, residents or inhabitants of Sierra Leone, guilty of any crime or offence cognizable by the laws of England, for the purpose of being tried for such offences in such British colony as the Queen of England may think fit to appoint; and the King party to this Treaty hereby binds himself to secure and surrender up all such criminals as aforesaid upon demand being made for them to him by the Governor of Sierra Leone, or by any other competent authority.

XV. All merchandize imported in British vessels within the dominions of the King party to this Treaty shall be exempted from the payment of any duty whatever, and in like manner the productions of the territories of the King party to this Treaty imported into the colony of Sierra Leone shall be (subject to the approval of the Governor and Council of the colony) exempted from all import or other duties.

XVI. In consideraton of the foregoing stipulations of this Treaty being agreed upon and strictly adhered to on the part of the King aforesaid and his successors, his Excellency Norman William Macdonald, Captain-General and Governor-in-chief of the colony of Sierra Leone, agrees for himself and successors, on the part of Her Majesty the Queen of England, to pay or cause to be paid annually to the said King and his successors the customs hereinafter mentioned and set forth, viz., 800 bars.

The above bars to be computed by the scale of bars in the schedule hereunto annexed.

XXII. The amount stipulated to be paid annually to the said King by this Treaty shall be considered a full compensation for the fulfilment of the terms and conditions thereof by the King aforesaid, and shall be in full satisfaction for all charges on British merchant shipping resorting to the waters of the territories of the said King for the purposes of trade, with the free and unrestricted right to wood and water.

XVIII. All expenses incurred by the Governor of Sierra Leone, or by any other person or persons, in consequence of any of the stipulations of this Treaty being broken by the King party hereto or by any of his Chiefs, Headmen, or subjects, shall be charged against the said King, and shall be deducted from any amount of stipend as aforesaid due and accruing to the said King; and in case the said expenses so as aforesaid incurred shall exceed in amount the sum of the annual stipend by Clause XVI of this Treaty agreed to be paid to the said King of the Kaffer Bulloms, then and in such case the annual payment of such stipend shall be withheld from the said King, and shall be applied to the liquidation of such expenses as aforesaid.

XIX. And whereas a Treaty was, on the 29th day of November, in the year of our Lord 1847,* concluded between the aforesaid Governor of Sierra Leone and the late Bey Sherbro, King of the Kaffer Bulloms, the immediate sovereign predecessor of the present King of the Kaffer Bulloms, party hereto, in Clause XV of which Treaty the said late Bey Sherbro did, for divers good and sufficient reasons therein set forth, cede and transfer to the said Governor, for and on behalf of the Queen of England, the right, title, and sovereignty in and over that portion of his territory extending



runs into the Sierra Leone River to the westward of Tagrin Point on the east to Key Pelong Creek, which empties itself into the sea on the west; and from the north bank of the Sierra Leone, lying between the two before-mentioned creeks, northerly to the town of Rokassy, and including within the said boundaries

all roads, footpaths, creeks, and navigable rivers which may exist within the same.

Done in triplicate at Freetown, Sierra Leone, this 26th day of August, in the year of our Lord 1852, and of Her Majesty's reign the 16th.

NORMAN MACDONALD, *Governor.*

his
NAIN SUGO ⋈
mark.

Signed and sealed in the presence of us,
L. SMYTH O'CONNOR, *Major Commanding the Troops.*
JOHN M'CORMACK.
J. F. SMYTH, *Colonial Secretary.*

We, the principal Chiefs, Headmen, and representatives of the principal families of the Kaffer Bulloms country, whose names are hereunto attached, do hereby declare that Nain Sugo, party to the foregoing Treaty, has been duly elected by us, and in accordance with the unanimous choice and voice of the Kaffer Bulloms, to be Bey Sherbro or King of the Kaffer Bulloms. And we do also hereby ratify, for ourselves and successors, as Chiefs and Headmen, all the stipulations and covenants which the said Nain Sugo, as Bey Sherbro, has entered into the foregoing Treaty. And we further pledge ourselves individually and collectively to the same being duly observed and carried into effect.

his
CAPRA SILLA ⋈, and 6 others.
mark.

Witnesses:
L. SMYTH O'CONNOR, and 3 others.

SCHEDULE.—*Scale of* 300 *Bars.*

	Bars.
6 pieces of blue baft	60
6 pieces of white baft	60
6 pieces of satin stripe	72
129 lbs. of tobacco..	75
15 gallons of rum, in 3 jars	33
	300

NORMAN MACDONALD.

(7.)—ADDITIONAL ARTICLES *of Peace and Friendship with Timmanees.—Port Lokkoh, May* 4, 1853.

ADDITIONAL Articles to the Treaty of 13th February, 1841,* between Sir John Jeremie, Knight, Captain General and Governor-in-Chief in and over the Colony of Sierra Leone and its dependencies, and the Honourable Robert Hornell, Esq., the Honourable William Cole, Esquire, and the Honourable William Fergusson, Esquire, Members of the Board of Council of Sierra Leone, in behalf of Her Majesty the Queen of England on the one part, and Alimame Dalu Mohamadoo, Chief of Medina, on the Bullom Shore, Namina Lahai, Brimah Kayelle, and Brimah Luke, authorized by the Ali Karlie and assembled Chiefs of the Timmanees in behalf of the Timmanee people on the other part. Signed at Port Lokkoh, 4th May, 1853.

Whereas it is expedient to make further additions to the aforesaid Treaty: It is therefore hereby agreed by Joseph Eugene Dillet, Esquire, of the Civil Service of the colony of Sierra Leone, and John McCormack, Esquire, Justice of the Peace of the said colony, Commissioners duly authorized and empowered by his Excellency Arthur Edward Kennedy, Captain-General and Governor-in-Chief in and over the colony of Sierra Leone and its dependencies, Vice-Admiral, Chancellor, and Ordinary of the same, for and on behalf of Her Majesty Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., on the one part, and Bey Foki, King of the Bacca Lokkoh territory, Fatima Brimah, Ali Karlie, of Bacca Lokkoh territory, Fatima Brimah, Ali Karlie, of Bacca Lokkoh, Namina Lahai, Chief of the Sancong family, Ebiro, Chief of the Kano family, Ansumanee Dabo, Kum-ro-Bey, of Bacca Lokkoh, Brimah Kayellie, a Chief of Port Lokkoh, Coor a Bump, a Chief of Port Lokkoh and head of the Barrang family, Bey Simmerah, King of Ma Simmerah, Bey Cobolo, King of Marampa, and Bey Fonti, King of Mendi, on

[redacted]

II. The Queen of England shall have also the right to demand the surrender of criminals or other persons, being British subjects or liberated Africans, or others, resident in Sierra Leone, charged with any crime or offence committed within the territories of the Chiefs of the Timmanee country, cognizable by the laws of England, for the purpose of being tried for such offence in Sierra Leone or such British colony as the Queen of England may think fit to appoint; and the Chiefs of the Timmanee parties to this Treaty hereby bind themselves to secure and surrender all British subjects or liberated Africans, or others, resident in Sierra Leone, who may be charged with any crime or offence as aforesaid, upon demand being made for them by his Excellency the Governor of Sierra Leone or any other competent authority.

III. English people may buy and sell or hire lands and houses in the Timmanee country, and their houses shall not be entered without their consent, nor shall their goods be seized, nor their persons touched; and if English people are wronged or ill-treated by the people of the Timmanee country, the Chiefs of the Timmanee country shall punish those who wrong or ill-treat the English people.

IV. But English people must not break the laws of the Timmannee country; and when they are accused of breaking the laws, the Chiefs shall send a true account of the matter to the nearest place where there is an English force, and the commander of such English force shall send for the English person, who shall be tried according to English law, and shall be punished if found guilty.

V. If the Timmanee people should take away the property of an English person, the Chief of the Timmanee country shall do all he can to make the Timmanee people restore the property and pay the debt; and if English persons should take away the property of the Timmanee people, or should not pay their just debts to the Timmanee people, the Chiefs shall make known the facts to the commander of the English force nearest to the Timmanee country, or to the resident agent, if there is one; and the English commander or the agent, whichever it may be, shall do all he can to make the English persons restore the property and pay the debt.

Done at Port Lokkoh, this 4th day of May, in the year of our Lord, 1853, and of Her Majesty's reign the 16th.

J. E. DILLET, *Commissioner.*
JOHN McCORMACK, *Commissioner.*
BEY FOKI his ⋈ mark, and 9 other Chiefs.

Witnesses:
W. S. McCAULAY.
J. E. VICKERS. And 5 Chiefs.

(8.)—ADDITIONAL ARTICLES *of Peace and Friendship with Timmanees.—Port Lokkoh, May* 9, 1853.

SUPPLEMENTAL Clauses to the additional Articles of Treaty with the late Sir John Jeremie and the Timmanee Chiefs, of 13th February, 1841.* Signed at the Port Lokkoh the 9th day of May, 1853.

Whereas it is expedient that the said additional Articles should be extended to the territories of Ro-Ma-Camma, Ro-Bweeah, Ro-Saffra-Koh, and the town of Ro Ballang in Mendi-Ka-Ma-Foki.

ART. I. Be it therefore known that we, the undersigned Chiefs and Headmen of the said districts and town, have this day given our assent and approval to the different clauses of the Treaty above referred to, and the additional or supplemental Articles before recited.

II. In consideration of all the foregoing conditions being strictly adhered to on the part of the Chiefs and Headmen parties hereto, his Excellency Arthur Edward Kennedy, Captain-General and Governor-in-Chief in and over the colony of Sierra Leone and its dependencies, agrees for himself and his successors in office to pay annually to the said Chiefs and Headmen and their successors the sums hereinafter stated, subject to the approval of the Honourable the Board of Council of Sierra Leone and Her most Gracious Majesty the Queen of Great Britain and Ireland.

In witness whereof the said Contracting Parties have hereunto set their hands and seals, at the town of Port Lokkoh, on this 9th day of May, in the year of the Christain era 1853, and of Her Majesty's reign the 16th.

J. E. DILLET, *Commissioner.*
JOHN McCORMACK, *Commissioner.*

his
REY CAMMA ✕ and 4 other Chiefs

(9.)—ADDITIONAL ARTICLES *of Peace and Commerce with Locco Marsamma.—Freetown, May* 12, 1853.

ADDITIONAL Articles to the Treaty of 29th November, 1847,* between his Excellency Norman William Macdonald, Governor of the colony of Sierra Leone, on behalf of Her Most Gracious Majesty the Queen of Great Britain and Ireland, and Ba Mauro, King of the Locco Marsamma. Signed at Freetown, in the colony of Sierra Leone, the 12th day of May, 1853.

Whereas it is expedient to make further additions to the aforesaid Treaty: It is therefore hereby agreed between his Excellency Arthur Edward Kennedy, Captain-General and Governor-in-Chief in and over the colony of Sierra Leone and its dependencies, Vice-Admiral, Chancellor, and Ordinary of the same, on behalf of Her Most Gracious Majesty the Queen of Great Britain and Ireland, and Pa Bombo the successor of the aforesaid Ba Mauro, King of Locco Marsamma.

ART. I. The Queen of England shall have the right to demand the surrender of criminals or other persons, being British subjects or liberated Africans, or others, resident in Sierra Leone, accused of any crime or offence committed within the colony of Sierra Leone or its dependencies, cognizable by the laws of England, for the purpose of being tried for such offence in Sierra Leone or such British colony as the Queen of England may think fit to appoint; and Pa Bombo, the King of Locco Marsamma, party to this Treaty, hereby binds himself and his successors to secure and surrender all British subjects or liberated Africans, or others, resident in Sierra Leone, who may be charged with any crime or offence as aforesaid, upon demand being made for them by his Excellency the Governor of Sierra Leone or any other competent authority.

II. The Queen of England shall have also the right to demand the surrender of criminals or other persons, being British subjects or liberated Africans, or others, resident in Sierra Leone, charged with any crime or offence committed within the territories of the King of Locco Marsamma, cognizable by the laws of England, for the purpose of being tried for such offence in Sierra Leone or such British colony as the Queen of England may think fit to appoint; and the King of Locco Marsamma, party to this Treaty, hereby binds himself to secure and surrender all British subjects or liberated Africans, or others, resident in Sierra Leone, who may be charged with any crime or offence as aforesaid, upon demand being made for them by his Excellency the Governor of Sierra Leone, or any other competent authority.

III. English people may buy and sell or hire lands and houses in the Locco Marsamma country, and their houses shall not be

* Vol. XLIX. Page 730.

entered without their consent, nor shall their goods be seized, nor their persons touched; and if English people are wronged or ill-treated by the people of Locco Marsamma, the King of Locco Marsamma shall punish those who wrong or ill-treat the English people.

IV. But English people must not break the laws of the Locco Marsamma country; and when they are accused of breaking the laws, the King shall send a true account of the matter to the nearest place where there is an English force, and the commander of such English force shall send for the English person, who shall be tried according to English law, and shall be punished if found guilty.

V. If the Locco Marsamma people should take away the property of an English person, the King of Locco Marsamma shall do all he can to make the Locco Marsamma people restore the property and pay the debt; and if English people should take away the property of the Locco Marsamma people, or should not pay their just debts to the Locco Marsamma people, the King shall make known the facts to the commander of the English force nearest to the Locco Marsamma country, or to the resident agent, if there is one; and the English commander or the agent, whichever it may be, shall do all he can to make the English persons restore the property and pay the debt.

Done at Freetown, Sierra Leone, this 12th day of May, in the year of our Lord 1853, and of Her Majesty's reign the 16th.

A. E. KENNEDY, *Governor.*

his
PA BOMBO ⋈.
mark.

Witnesses:

J. F. SMYTH.

THOMAS GEO. LAWSON.

[redacted]

PROCLAMATION by his Excellency Arthur Edward Kennedy, Captain-General and Governor-in-chief, in and over the colony of Sierra Leone and its dependencies, Vice-Admiral, Chancellor, and Ordinary of the same, &c.

A. E. KENNEDY, *Governor.*

WHEREAS certain additional Articles to a Treaty between the Government and certain Chiefs of the Sherbro were concluded with Canrebah Caulker, Harry Tucker, Pierre Charlie, and William E. Tucker, on the 31st day of March, 1853:*

And whereas certain additional Articles to a Treaty between the Government and the King of Locco Marsamma were concluded on the 12th day of May, 1853;† and whereas certain additional Articles to a Treaty commonly known as Sir John Jeremie's Treaty were concluded with certain Chiefs of Port Lokkoh on the 4th day of May, 1853;‡ and whereas certain supplemental clauses to the last-mentioned additional Articles were also concluded with certain Chiefs of Port Lokkoh on the 9th day of May, 1853;§ and whereas certain additional Articles to a Treaty between this Government and certain Chiefs of the Sherbro were concluded with the Chiefs of Jong and of Barmah on the 9th day of May, 1853:‖

And whereas it hath been signified to me by Her Majesty's Principal Secretary of State for the Colonies that Her Majesty hath been graciously pleased to ratify the aforesaid Articles and clauses.

Now, therefore, I do hereby publish, proclaim, and make known to all whom it may concern Her Majesty's gracious ratification as aforesaid.

Given at Government House, Fort Thornton, in the city of Freetown, in the colony aforesaid, this 1st day of August, in the year of our Lord 1854, and of Her Majesty's reign the 18th.

By his Excellency's command,

J. F. SMYTH, *Colonial Secretary.*

God Save the Queen.

(10.)—TREATY *for the Settlement of Differences with Barra.—Bathurst, August* 2, 1853.

TREATY made and concluded between Demba-Soonko, King of Barra, and Jalia, one of the subjects of the said Demba-Soonko, at Bathurst, River Gambia, on the 2nd day of August, 1853.

Whereas, for many years past, differences have arisen and continued between the said King of Barra and his subject, Jalia, and hostilities have been carried on between them to the damage and injury generally of the kingdom of Barra, and the subjects thereof: and whereas the parties aforesaid have called upon Luke Smyth

* Vol. XLV. Page 905. † Page 833. ‡ Page 830.
§ Page 832. ‖ Vol. XLV. Page 908.

O'Connor, Governor and Commander-in-chief of the British settlement upon the River Gambia and its dependencies, and Vice-Admiral of the same, Lieutenant-Colonel in Her Majesty's army, Commanding the troops on the Western Coast of Africa, to settle and determine the aforesaid disputes and differences, and have agreed to abide by the determination therein of the said Governor: now the said King Demba-Soonko, and the said Jalia, agree, in accordance with the opinion and determination of the said Governor, as follows:

The said Jalia agrees to acknowledge the said King to be his King, and King of all the country of Barra, and also, to pay him his customary tribute for the lands which he holds under the said King, as his subject, and to hold said lands upon the same conditions as his forefathers did; and the said King Demba-Soonko agrees to accept the said services of Jalia, his subject, and to leave him in undisturbed possession of his lands upon the aforesaid conditions.

L. SMYTH O'CONNOR, *Governor.*

his
JALIA ⋈
mark.

[And several other Chiefs and Witnesses.]

(11.)—CONVENTION *of Commerce with Barra.—Fort Bullen, Barra Point, August* 26, 1854.

CONVENTION made the 26th day of August, 1854, between Luke Smyth O'Connor, Esquire, Governor and Commander-in-Chief of Her Majesty's Settlements on the River Gambia, Vice-Admiral and Ordinary of the same, Lieutenant-Colonel in Her Majesty's army, commanding troops on the Western Coast of Africa, &c., on the one



viz.: that each trader shall pay into the Colonial Chest at Bathurst, the aforesaid Custom of 3*l.* sterling, for which he will receive from the Colonial Secretary a receipt, which receipt on being delivered to the said King of Barra, or his agents, shall entitle him, the said trader, to carry on trade within the said Kingdom.

III. That on production, by the said King of Barra, or his agent, to the Colonial Secretary, of the aforesaid receipts, on or after the 1st day of July of each year, he shall be entitled to receive for each such receipt, the sum of 3*l.* sterling from the said Secretary.

IV. That all such traders and agents shall, when trading in the said Kingdom, conduct themselves in a peaceable and orderly manner, and shall not engage themselves with any acts or movements within the said Kingdom, by which the King may sustain loss or injury.

V. That in case any trader or agent, who shall have paid the Custom aforesaid, shall be robbed or plundered by the King, or any of his subjects, or other persons on the King's ground, it shall be lawful for the Governor of the Gambia to indemnify such traders or agent to such extent as his Excellency the Governor shall think just and equitable, from the Customs received or to be received under this convention.

In consideration whereof His Majesty the King of Barra agrees and faithfully promises:

1. To protect the lives and property of all such traders and agents, and to secure them against loss or damage of any kind whatsoever, while trading as aforesaid, in his dominions.

2. That in the event of the misconduct or death of any such trader or agent, the goods in his possession shall not thereupon be seized and sold for the benefit of the King, provided they be not the actual property of such trader or agent, but shall be protected until the proper owners thereof be found, and shall prove his title thereto.

In witness of this Convention the parties aforesaid have hereunto set their hands, and affixed their seals, at Fort Bullen, Barra Point, this 26th day of August, 1854.

L. SMYTH O'CONNOR, *Governor.*
(Signed in Arabic) DEMBA SONKO, *King of Barra.*
[And several other Chiefs and Witnesses.]

(12.)—TREATY *of Commerce with Kanabak.—Kanabak, April* 19, 1855.

BY his Excellency Luke Smyth O'Connor, Governor and Commander-in-chief of Her Britannic Majesty's Settlements on the River Gambia, Vice-Admiral and Ordinary of the same, Lieutenant-Colonel in the British Army, &c., on the part of Her Majesty Queen

Victoria, by the Grace of God of Great Britain and Ireland, Defender of the Faith, and the King and Chiefs of Kanabak and its dependencies on the other part.

ART. I. That all subjects of Her Britannic Majesty, and all vessels under the British flag which shall come to the Island of Kanabak and its dependencies, for the purposes of lawful commerce, shall receive good faith and protection from the King and Chiefs of Kanabak, who shall render every assistance for lawful purposes, and shall not in any manner molest or hinder the said subjects in the pursuit of their lawful trade.

II. In case of any vessel bearing the British flag, or any subject of the Queen of Great Britain being shipwrecked on the Island of Kanabak or its dependencies, that the King and Chiefs of Kanabak shall yield them every protection in their power, and shall use every endeavour to communicate intelligence of such shipwreck to the British resident or agent at the Island of Bulama, or to the Governors of Her Britannic Majesty's Settlements on the River Gambia or at Sierra Leone.

In ratification whereof the said parties to this Treaty have hereunto affixed their hands and seals. Done at Kannbak this 19th day of April, 1855.

L. SMYTH O'CONNOR, *Governor.*

his
TESACKA ⋈, *King of Kanabak.*
mark.

[And numerous Witnesses.]

(13.)—CONVENTION *of Commerce with Sin.—Joal-Boor-Sin, January* 22, 1856.



a fixed custom of dollars for each year during which he carries on his trade, and shall not be liable for any other charge or tax whatsoever on behalf of the said King.

II. That all such traders and agents shall, while trading in His Majesty's kingdom, conduct themselves in a peaceable and orderly manner, and shall not engage or connect themselves with any acts or movements within the kingdom by which the King may sustain loss or injury, and shall obey and conform to all laws and regulations made by or emanating from the said King.

In consideration whereof His Majesty the King agrees and faithfully promises:

1. To protect the lives and properties of all such traders and agents, and to secure them against loss or damage of any kind whatsoever while trading as aforesaid within his dominions, and especially shall and will by his orders, and otherwise by all means within His said Majesty's power, protect, assist, and defend all vessels which may be wrecked or stranded on the coast within the dominions of him the said King, the cargo, lives, and property on board, and shall forthwith communicate on the subject with the said Governor or other officer for the time being administering the Government of the British settlements on the River Gambia.

2. That in the event of the misconduct or death of any such trader or agent, the goods in his possession shall not thereupon be seized and sold for the benefit of the King (provided they be not the actual property of such trader or agent), but shall be protected until the proper owner thereof be found, and shall prove his title thereto, and not then, unless such shall be the known country law of the kingdom of Sin aforesaid, notwithstanding any custom prevailing to the contrary.

In witness of this Convention the parties aforesaid have hereunto set their hands and affixed their seals at Joal-Boor-Sin, this 22nd day of January, and year first above written.

L. SMYTH O'CONNOR, *Governor.*
BUCARIE CHILLAS.

[And several other Chiefs and Witnesses.]

(14.)—TREATY *of Peace, Friendship, and Commerce with Mambolo.—Freetown, December* 3, 1856.

TREATY between his Excellency Stephen John Hill, Captain-General and Governor-in-Chief in and over the colony of Sierra Leone and its dependencies, Vice-Admiral, Chancellor, and Ordinary of the same, for and in behalf of Her Majesty Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., and Bey Sherbro, King of Mambolo.

ART. I. There shall be peace between the subjects of the Queen of England and the subjects of the said Bey Sherbro, King of Mambolo, and should any difference or dispute accidentally arise between the said Bey Sherbro and any other Chief in his dominions, it shall be referred to the Governor of Sierra Leone, and his decision thereon shall be final and binding upon all parties concerned.

II. The persons and property of all British subjects shall be inviolate, and no semo, country law, or custom shall be put in force against them, neither shall they if aggrieved have recourse to any semo, country law, or custom; they must lay their grievance before the Government of Sierra Leone.

III. British subjects are strictly prohibited from breaking the country laws, from interfering in any way with the disputes and quarrels of the native Chiefs or their subjects, and from aiding, assisting, countenancing, or supporting them directly or indirectly in their wars against each other, either by supplying them with arms, ammunition, or any warlike stores whatever, or with the means of procuring them.

IV. The Slave Trade is for ever abolished within the territories of the said King party hereto, and his subjects are hereby prohibited from being engaged in that traffic, either directly or indirectly.

V. No person whatever, Europeans or others, are to be permitted to establish themselves within the territories of the said King party hereto, for the purpose of carrying on or engaging in the Slave Trade. And the said King hereby empowers the officers and forces of the Queen of England to expel all persons violating this clause from the territories of the said King by force if need be; and to burn or otherwise destroy their barracoons and slave factories, and to seize boats, canoes, or vessels of any description found engaged either

the territories of the said King for the protection of her subjects and for securing due adherence to the stipulations of this Treaty, and the person and property of such agent shall be inviolate, and he shall receive all honour and protection.

IX. All complaints against British subjects must be made to Her Majesty's agent, if there be one, or to the Governor of Sierra Leone, in either case accompanied by sufficient proof, in order that justice may be impartially done between all parties.

X. The ministers of the Christian religion shall be permitted to reside and exercise their calling within the territories of the said King, and to establish schools for the education and proper training up of the youths of both sexes, and they are to receive all honour and protection.

XI. The roads throughout the territories of the King shall be kept open; they are not to be "semoed" or shut on any pretext whatever, and all parties, British subjects, native strangers, and others are allowed to travel thereon to and from the colony of Sierra Leone or elsewhere free and unmolested.

XII. The canoes and boats of the said King and of his subjects visiting the colony of Sierra Leone for the purposes of trade are placed upon the same footing as the boats of the colony, and are exempted from all taxes, and their property while peaceably trading to or residing within the colony shall receive the fullest protection.

XIII. The bodies of British seamen or other non-resident British subjects who may die within the territories of the said King, shall have the right of interment on payment of 6 dollars to the said King, which sum shall be in full of all burial fees, and all resident British subjects dying within the territories of the said King, party to this Treaty, shall be interred on payment of the customary tribute or offering, the amount of which shall be arranged and determined between the friends of the deceased and the said King or his representatives. The graves of persons so interred shall be secure from violation.

XIV. The Queen of England shall have the right to demand the surrender of criminals or other persons being British subjects or liberated Africans guilty of any offence cognizable by the laws of England, for the purpose of being tried in such British colony as Her Majesty the Queen of England may think fit to appoint, and the King, party to this Treaty, does hereby agree to surrender all British subjects who may be charged with any offence as aforesaid, upon demand being made by some competent authority.

XV. All merchandize imported in British vessels within the dominion of the King, party to this Treaty, shall be exempted from the payment of any duty whatever, and in like manner the pro-

ductions of the territories of the said King, party to this Treaty, and imported into the colony of Sierra Leone, shall be (subject to the approval of the Governor and Council of the said colony) exempt from all import or other duties.

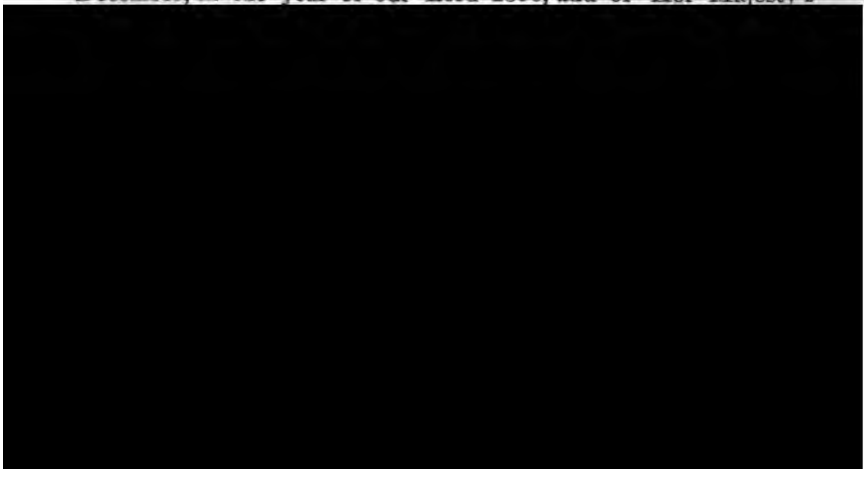
XVI. The King, party to this Treaty, shall receive from each and every British vessel (excepting those of the colony of Sierra Leone) of 25 tons and upwards visiting his territories, the sum of 16 dollars; from each and every decked vessel of above 5 tons and under 25 tons burthen, the sum of 10 dollars, which shall be considered in full for anchorage and waterage dues with the privilege of taking in wood and water. All British boats and canoes of less than 5 tons burthen shall have free navigation of the river within the territories of the aforesaid King without any charge whatever. Provided always, that nothing herein contained shall be construed to extend to ships or vessels passing by the territories of the aforesaid King without remaining for the purposes of trade.

XVII. In further consideration of the foregoing stipulations of this Treaty being agreed upon and strictly adhered to on the part of the King aforesaid and his successors, his Excellency Stephen John Hill, Captain-General and Governor-in-chief of the colony of Sierra Leone, agrees, for himself and successors, on the part of Her Majesty the Queen of England, to pay or cause to be paid annually to the said King and his successors the customs hereinafter mentioned and set forth, viz., 200 bars.

The above bars to be computed at the rate of 1*s.* each.

XVIII. This Treaty shall be proclaimed immediately on its being concluded and signed, and be made law throughout the territories of the said King.

Signed and sealed at Freetown, Sierra Leone, this 3rd day of December, in the year of our Lord 1856, and of Her Majesty's



of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., and Yan Kobah, Ali Karli of Port a Lokkoh; Bey Foki, ground King of the Port a Lokkoh territory; Alimamy Mommo Sankong Sain Dugu, a Chief of the Sankongs; Namina Lahai Sain Dugu, a Chief of the Sankongs; Brahima Kayellie, a Chief of Sain Dugu, Port a Lokkoh; Santiggey Nonkoh Lahia, a Chief of Port a Lokkoh; Kindo, a Chief of Port a Lokkoh; Suri Conditto, a Chief Port a Lokkoh; Koor-a-Bump, a Chief of Old Port a Lokkoh; Ebiru, Old Port a Lokkoh, Chief of the Kano family; Bey Fonti, King of Mendi; Santiggey Suri Cappra, a Chief of Old Port a Lokkoh; Bey Cammah, King of Ro Ma Cammah; Bey Bantah, King of Ro Beweah; Bey Faramah, King of Ro Saffrakoh; Bey Seccah, King of Ro Debbeah; Brimah Sandah, Chief of Bye Berah Bollontoh; Bey Cobolo, King of Marampah; Pa Suba, Chief of Mabelly, under Bey Cobolo; Ansumana Dabo, a Chief of Mabelly and of Port a Lokkoh; Bey Simerah, King of Ma Simerah; Bey Yolah, King of Ma Yolah, under Bey Simerah; Alimamy Suri Sessie, Chief of Rokelle, under Bey Simerah; Pa Compo, Chief of Ro Kon, under Bey Simerah; Bey Kroo, King of Ma Bang; Sado, a Chief of Port a Lokkoh and of Mabelly; Bey Sherbro, King of Yoni; Bocarry Cealey, Chief of Fory Dugu in Quiah; Alimamy Cooraboh, Chief of Ma Lolum in Bambalee; Massa Packey, Chief of Ma Packey; Alimamy Conti, Chief of Ma Conti, under Bey Simerah; Alimamy Balla Loll Camarah, Chief of Ma Manso, under Bey Cobolo, Chiefs of the Timmanee country.

I. There shall be peace between the subjects of the Queen of England and the subjects of the Ali Karli, and should any difference or dispute accidentally arise between the aforesaid Chiefs, it shall be referred to the Governor of Sierra Leone, and his decision thereon shall be final and binding upon all parties concerned.

II. The persons and property of all British subjects shall be inviolate, and no semo, country law, or custom shall be put in force against them, neither shall they, if aggrieved, have recourse to any semo, country law, or custom; they must lay their grievance before the Government of Sierra Leone.

III. British subjects are strictly prohibited from breaking the country laws, from interfering in any way with the disputes and quarrels of the native Chiefs or their subjects, and from aiding, assisting, countenancing, or supporting them directly or indirectly in their wars against each other, either by supplying them arms, ammunition, or any warlike stores whatever, or with the means of procuring them.

IV. The Slave Trade is for ever abolished within the territories of the Chiefs parties hereto, and their subjects are hereby pro-

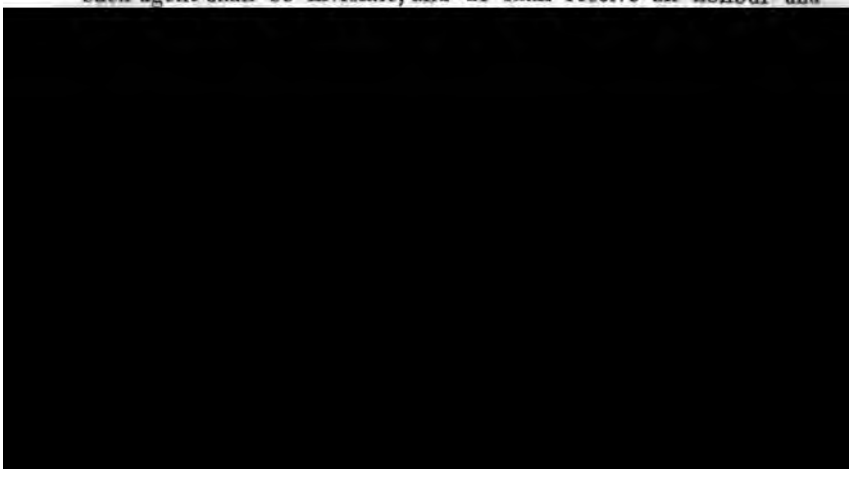
hibited from being engaged in that traffic either directly or indirectly.

V. No persons whatever, Europeans or others, are to be permitted to establish themselves within any of the territories of any of the Chiefs parties hereto for the purpose of carrying on or engaging in the Slave Trade; and the said Chiefs hereby empower the officers and forces of the Queen of England to expel all persons violating this clause from the territories of the said Chiefs by force, if need be, and to burn or otherwise destroy their barracoons and slave factories, and to seize boats, canoes, and vessels of any description found engaged either directly in the Slave Trade, or in aiding and abetting the traffic within the waters belonging to the said Chiefs.

IV. The subjects of the Queen of England are hereby guaranteed the right of free and unrestricted legitimate traffic within the territories of the aforesaid Chiefs, and all rights and privileges heretofore enjoyed by them are hereby recognized and confirmed; they may buy or rent lands and houses, which shall not be entered upon without their free will and consent.

VII. All privileges conferred upon the subjects of any foreign State or Power shall be considered as being equally granted to British subjects; and no privileges or rights shall be secured to the subjects of a foreign State without being notified to the Governor of Sierra Leone, in order to such privilege or right being extended to the subjects of Her Majesty.

VIII. Her Majesty may appoint an agent to visit or reside in the territories of the said Ali Karli and other Chiefs parties hereto for the protection of her subjects, and for securing due adherence to the stipulations of this Treaty, and the person and property of such agent shall be inviolate, and he shall receive all honour and



XII. The canoes and boats of the said Ali Karli and other Chiefs parties hereto, and of their subjects visiting the colony of Sierra Leone for the purposes of trade, are placed upon the same footing as the boats of the colony, and their property while peaceably trading to or residing within the colony shall receive the fullest protection.

XIII. The bodies of British seamen or other non-resident British subjects who may die within the Timmanee country shall have the right of interment on payment of 6 dollars to the Chief of that portion of the country in which the death takes place, which sum shall be in full of all burial fees, and all resident British subjects dying within the territories of the said Ali Karli and other Chiefs parties to this Treaty, shall be interred on payment of the customary tribute or offering, the amount of which shall be arranged and determined between the friends of the deceased and the Chief of the country as aforesaid. The graves of persons so interred shall be secured from violation.

XIV. The Queen of England shall have the right to demand the surrender of criminals, or other persons being British subjects or liberated Africans or others resident in Sierra Leone, accused of any crime or offence committed within the colony of Sierra Leone or its dependencies, cognizable by the laws of England for the purpose of being tried for such offence in Sierra Leone or such British colony as the Queen of England may think fit to appoint. and the Ali Karli and other Chiefs of the Timmanee country parties to this Treaty hereby bind themselves to secure and surrender all British subjects or liberated Africans or others resident in Sierra Leone who may be charged with any crime or offence as aforesaid, upon demand being made for them by his Excellency the Governor of Sierra Leone or any other competent authority.

XV. The Queen of England shall have also the right to demand the surrender of criminals or other persons being British subjects or liberated Africans or others resident in Sierra Leone charged with any crime or offence committed within the territories of the Chiefs of the Timmanee country, cognizable by the laws of England for the purpose of being tried for such offence in Sierra Leone or such British colony as the Queen of England may think fit to appoint. And the Ali Karli and other Chiefs of the Timmanee country parties to this Treaty hereby bind themselves to secure and surrender all British subjects or liberated Africans or others resident in Sierra Leone who may be charged with any crime or offence as aforesaid, upon demand being made for them by his Excellency the Governor of Sierra Leone of any other competent authority.

XVI. All merchandize imported in British vessels within the Timmanee country, shall be exempted from the payment of any

duty whatever, and in like manner the productions of the territories of the said Chiefs parties to this Treaty, and imported into the colony of Sierra Leone, shall be (subject to the approval of the Governor and Council of the said colony), exempt from all import or other duties.

XVII. The practice of making human sacrifices on account of religious or political ceremonies shall cease for ever in the Timmanee country.

XVIII. In further consideration of the foregoing stipulations of this Treaty being agreed upon and strictly adhered to on the part of the Ali Karli and other Chiefs aforesaid, and their successors, his Excellency Stephen John Hill, Captain-General and Governor-in-chief of the colony of Sierra Leone, agrees for himself and successors on the part of Her Majesty the Queen of England, to pay or cause to be paid annually to the said Ali Karli and other Chiefs and their successors the customs hereinafter mentioned and set forth, viz.:

	Bars.
Ali Karli, Chief of Port a Lokkoh	600
Bey Foki, ground King of the Port a Lokkoh territory	200
Alimamy Mommo Sankong Sain Dugu Port a Lokkoh, Chief of the Sankong family	300
Namina Lahia, a Chief of the Sankongs	300
Brahima Kayellie, a Chief of Sain Dugu Port a Lokkoh	100
Santiggey Nonkoh Lahia, a Chief of Port a Lokkoh	100
Kindo, a Chief of Port a Lokkoh	100
Suri Conditto, a Chief of Port a Lokkoh	100
Koor a Bump, a Chief of Old Port a Lokkoh ..	50

[redacted]

	Bars.
Pa Compa, Chief of Ro Kon, under Bey Simerah ..	50
Bey Kroo, King of Maband	100
Sado, a Chief of Port a Lokkoh and of Mabelly ..	100
Bey Sherbro, King of Yoni	100
Alimamy Bocarry Cealey, Chief of Fory Dugu in Quiah..	100
Alimamy Cooraboh, Chief of Ma Lolum in Bambalee	100
Massa Packey, Chief of Ro Ma Packey	50
Alimamy Conti, Chief of Ma Conti under Bey Simerah	50
Alimamy Balla Loli Gamarah, Chief of Ma Manso under Bey Cobolo	50

XIX. This Treaty shall revoke and disannul all previous Treaties made between Her Majesty the Queen of England and the Chiefs and people of the Timmanee country, and shall be proclaimed immediately on its being concluded and signed, and be made law throughout the territories of the Ali Karli and other Timmanee Chiefs parties hereto.

Signed and sealed at Port a Lokkoh, this 27th day of February, in the year of our Lord, 1857, and of Her Majesty's reign the twentieth.

STEPHEN J. HILL, *Governor-in-chief.*

his
BEY FOKI ⋈.
mark.

[Signed by 32 other Kings and Chiefs, enumerated above.]

Witnesses:

CHARLES HEDDLE and 5 others.

Scale for 100 *Bars.*

	Bars.
2 pieces of blue baft	20
2 do. white do.	20
2 do. satin stripe	24
Tobacco	25
Rum 5 gallons and jar	11
	100

Scale for 50 *Bars.*

	Bars.
1 piece of blue baft	10
1 do. white do.	10
1 do. satin stripe	12
Tobacco	12
Rum, 3 gallons	6
	50

Cash instead of goods.

And if the above specified bars or any part of them are to be paid in cash, it is clearly and distinctly understood by each of the Contracting Parties, that it is to be at the rate of 1*s.* for each bar.

(16.)—TREATY *of Peace with Plantain Islands.—On board H.M.S. "Trident," off Tasso, May* 31, 1859.

TREATY of Peace between Thomas Stephen Caulker, Chief of the Plantain Islands, and Francis Arden Close, Esquire, Commander of Her Majesty's ship *Trident*, for and on behalf of Her Majesty the Queen of Great Britain.

ART. I. Whereas the Chief Thomas Stephen Caulker has been the cause of wars for many years in the Sherbro River, and it is considered necessary, in order to obtain a lasting peace, that the Chief Thomas Stephen Caulker should leave Bendo and return to his own territory at the Plantain Islands pointed out by Treaty with Great Britain.

II. That Thomas Stephen Caulker shall not, under any pretence whatever, go over to Bendo, or the country of the Sherbro River, nor directly or indirectly make, counsel, nor hire war against the King or Chief of that country, nor in any manner intermeddle with the administration of any country beyond the territory of the said Thomas Stephen Caulker, pointed out by Treaty with Great Britain, signed at Tasso on the 4th of July, 1849.*

Done on board Her Majesty's ship *Trident*, off Tasso, this 31st day of May, in the year of our Lord 1859.

his
THOMAS STEPHEN CAULKER ⋈.
mark.

Witnesses to signature:
F. A. CLOSE and 3 others.

RATIFICATION of the above Treaty in accordance with custom of the country, at Tasso, June 1, 1859.

I, Thomas Stephen Caulker, Chief of Plantain Islands, standing on the graves of my ancestors, at Tasso, in the presence of Thomas Theophilus Caulker and Thomas George Caulker, and in



Bompey, Ribby, and Sherbro countries, parties hereto, friends and allies of the said Thomas Theophilus Caulker, and the Timineh Chief Bocary Silly.

Whereas at the desire of Thomas Theophilus Caulker, Chief of the Bompey, and the Timineh Chief Bocary Silly, and their respective Chiefs and allies, who have consented to put an end to the war which has been carried on between them for some months, and to conclude a Treaty of Peace and Friendship on the terms and conditions hereinafter mentioned.

ART. I. The war is at an end, and there shall be peace and friendship between the said Thomas Theophilus Caulker, his Chiefs and allies, and the Timineh Chief Bocary Silly, his Chiefs and allies, and between each and every of them.

II. The soldiers and war men of every of the said Chiefs shall be withdrawn from every place, fort, or stockade within the territories declared to belong by former Treaties with Great Britain to any other of the said Chiefs; and if this condition be not complied with, the said Chiefs parties hereto consent to aid and assist the force of the Queen of England in taking forcible possession of such places, forts, and stockades, and delivering them over to the parties to whom they belong.

III. The Chiefs parties hereto hereby agree to remain at peace with each other, and to refer any dispute which may arise between them to the Governor of Sierra Leone for the time being, and if any parties hereto shall refuse to refer such dispute to the said Governor, or to abide by his decision, the other Chiefs parties hereto shall unite with the said Governor in punishing them.

IV. The Chiefs parties hereto bind themselves to respect and act up to the terms of all former Treaties which exist between the Sherbro country and Great Britain.

Done on board Her Majesty's ship *Trident* off the Bompey River, this 1st day of June, in the year of our Lord 1859, and of Her Majesty's reign the 22nd.

F. A. CLOSE, *Commander.*

THOS. THEOPHILUS CAULKER his ⋈ mark.

and 3 others.

BOCARY SILLY (signature in Arabic).

Witnesses to the signature of Bocary Silly.

JOHN MCCORMACK.

THOS. GEO. LAWSON.

RATIFICATION of a Treaty made this 24th day of June, A.D. 1859, Between Alexander Bey Cantah, King of the Quia country, in the

Ribby, Pa Capra, Pa Comba, Sattan Soorie, Pa Booboo, Cotie, Pa Mangee Limney, and Rabbee Botie, principal Chiefs in the Quia country, of the one part, and his Honour Alexander Fitzjames, Acting Governor of Sierra Leone, on the behalf of Her Majesty the Queen, of the other part.

Whereas a Treaty, bearing date on board Her Majesty's ship *Trident*, off the Bompey River, on the 1st day of June instant, between Thomas Theophilus Caulker, Chief of Bompey, and the Timmanee Chief Bocary Silly, and the other Chiefs of the Bompey, Ribby, and Sherbro countries, friends and allies of the said Thomas Theophilus Caulker, and the Timmanee Chief Bocary Silly, to establish peace in the Bompey, Ribby, and Sherbro countries.

And whereas Bocary Silly was authorized by the said parties hereto of the first part to execute the said Treaty on their behalf, and it is necessary that the said Treaty should be ratified.

Now, therefore, the said parties hereto of the first part do hereby solemnly ratify, confirm, and adopt the said Treaty in all its parts.

In witness whereof the said parties hereto have hereunto set their hands and seals the day and year first above written.

ALEXANDER BEY CANTAH his ⋈ mark.

And 7 other Chiefs.

A. FITZJAMES, *Acting Governor*.

Signed, sealed, and delivered in our presence:
JOHN MCCORMACK and 3 others.

(18.)—TREATY *of Peace, Friendship and Commerce, with Lokkoh Massammah.—Ro Baney, April* $\frac{1}{15}$, 1860.

[redacted]

sum of 45*l.* 15*s.* 5*d.* to effect the same, which amount the Government of Sierra Leone have this day advanced, and the parties hereto have thereupon agreed upon the following Articles:

ART. I. There shall be peace between the subjects of the Queen of England and between the subjects of the several Chiefs, parties to this Treaty, and should any difference or dispute accidentally arise between the aforesaid Chiefs, it shall be referred to the Governor of Sierra Leone, and his decision thereon shall be final and binding upon all parties concerned.

II. The persons and property of all British subjects shall be inviolate, and no semo, country law, or custom shall be put in force against them, neither shall they, if aggrieved, have recourse to any semo, country law, or custom; they must lay their grievance before the Government of Sierra Leone.

III. British subjects are strictly prohibited from breaking the country laws, from interfering in any way with the disputes and quarrels of the native Chiefs or their subjects, and from aiding, assisting, countenancing, or supporting them directly or indirectly in their wars against each other, either by supplying them with arms, ammunition, or any warlike stores whatever, or with the means of procuring them.

IV. The Slave Trade is for ever abolished within the territories of the said Chiefs parties hereto, and their subjects are hereby prohibited from being engaged in that traffic either directly or indirectly, and if any liberated African being in the territory of any of the said Chiefs shall be engaged directly or indirectly in that traffic, he shall be liable to be tried and punished therefor according to the laws of England.

V. No persons whatever, Europeans, liberated Africans, or others, are to be permitted to establish themselves within any of the territories of any of the Chiefs parties hereto, for the purpose of carrying on or engaging in the Slave Trade. And the said Chiefs hereby empower the officers and forces of the Queen of England to enter upon their territories, and to expel therefrom by force, if need be, all persons violating this clause, and to burn or otherwise destroy their barracoons and slave factories, and to seize all boats, canoes, and vessels of every description, found engaged either directly in the Slave Trade, or in aiding and abetting the traffic within the waters belonging to the said Chiefs.

VI. The subjects of the Queen of England are hereby guaranteed the right of free and unrestricted legitimate traffic within the territories of the aforesaid Chiefs, and all rights and privileges heretofore enjoyed by them are hereby recognized and confirmed: they may buy or rent lands and houses, which shall not be entered upon without *their free will and consent.*

VII. All privileges conferred upon the subjects of any foreign State or Power shall be considered as being equally granted to British subjects and liberated Africans, and no privileges or rights shall be secured to the subjects of a foreign State without being notified to the Governor of Sierra Leone in order to such privilege or right being extended to the subjects of Her Majesty and liberated Africans.

VIII. Her Majesty may appoint an agent to visit or reside in the territories of the said Chiefs parties hereto, for the protection of her subjects and liberated Africans, and for securing due adherence to the stipulations of this Treaty, and the person and property of such agent shall be inviolate, and he shall receive all honour and protection.

IX. All complaints against British subjects and liberated Africans must be made to Her Majesty's agent, if there be one, or to the Governor of Sierra Leone, in either case accompanied by sufficient proof in order that justice may be impartially done between all parties.

X. The ministers of the Christian religion shall be permitted to reside and exercise their calling within the territories of the said Chiefs, and to establish schools for the education and proper training up of the youths of both sexes, and they are to receive all honour and protection.

XI. The roads throughout the territories of the said Kings and Chiefs shall be kept open; they are not to be semoed or shut on any pretext whatever, and all parties, British subjects, native strangers, and others, are allowed to travel thereon to and from the colony of Sierra Leone or elsewhere free and unmolested.

XII. The canoes and boats of the said Chiefs parties hereto, and of their subjects visiting the colony of Sierra Leone for the



surrender of criminals, or other persons being British subjects, or liberated Africans, or others resident in Sierra Leone, accused of any crime or offence committed within the colony of Sierra Leone or its dependencies, cognizable by the laws of England, for the purpose of being tried for such offence in Sierra Leone, or such other place as the Queen of England has already appointed or may hereafter appoint for that purpose; and the said Chiefs, parties to this Treaty, hereby bind themselves to secure and surrender all British subjects, or liberated Africans, or others resident in Sierra Leone, who may be charged with any crime or offence as aforesaid, upon demand being made for them by his Excellency the Governor of Sierra Leone, or any other competent authority.

XV. The Queen of England shall have the right to demand the surrender of all criminals who, being convicted of any crime or offence in any part of her dominions, may be found in the territories of the said Chiefs, and also the surrender of all British subjects or liberated Africans accused or charged with any crime or offence cognizable by the laws of England, committed within the territories of the said Chiefs, or elsewhere, and found within the territories of the said Chiefs, for the purpose of being punished or tried for such crime or offence in Sierra Leone, or such other place as the Queen of England has already appointed or may hereafter appoint for that purpose, and the Chiefs parties hereto bind themselves and their successors to secure and surrender all such criminals, British subjects, and liberated Africans so convicted, accused, or charged as aforesaid, upon demand made for them by the Governor of Sierra Leone, or any other competent authority.

XVI. All merchandize imported in British vessels within the territories of the said Chiefs shall be exempted from the payment of any duty whatever, and in like manner the productions of the territories of the said Chiefs, parties to this Treaty, imported into the colony of Sierra Leone shall be (subject to the approval of the Governor and Council of the said colony) exempt from all import or other duties.

XVII. The practice of making human sacrifices on account of religious or political ceremonies shall cease for ever in the territories of the said Chiefs.

XVIII. This Treaty shall be proclaimed immediately on its being concluded and signed, and be made law throughout the territories of the Chiefs parties hereto.

Signed and sealed at Government House, Freetown, this 7th day of April, in the year of our Lord 1860, and of Her Majesty's reign the 23rd, by Alexander Fitzjames, Acting Governor.

A. FITZJAMES, *Acting Governor*.

Witnesses to the signature of Alexander Fitzjames, Acting Governor:
GEO. W. NICOL.
ROWLAND DAVIES.

Signed and sealed at Ro Baney, this 15th day of April, in the year of our Lord 1860, and of Her Majesty's reign the 23rd.

their

BEY MAURO ⋈
BEY SHERBRO ⋈
AMARA ADAM ⋈
ANSUMANA KONKOH ⋈
DURA MOUDO ⋈
KINDO BANCOORAH, by BOOBOO BANCOORAH ⋈
BOOBOO BANCOORAH ⋈
NONKOH LAHIE, by BOCARRY PEPPEY ⋈
SADOO CAMARAH (signed in Arabic) marks.
FENDA SANNASEE MODOO (signed in Arabic).
CEEREY MOUDO (signed in Arabic).

Witnesses to the above signatures and marks:
JOHN MCCORMACK, and 3 others.

Received from the Governor of Sierra Leone the sum of 45*l.* 15*s* 5*d.* mentioned in the within Treaty.

his

BEY MARUO ⋈

mark.

SADOO CAMARAH (signed in Arabic).

Witnesses to signature and mark:
JAMES COLE.
THOMAS C. SMART.

PROTOCOLE de la Conférence tenue à Honolulu, à l'occasion de l'Echange des Ratifications du Traité de Commerce et de Navigation, conclu le 29 Octobre, 1857,* *entre la France et les Iles Sandwich.—Honolulu, le 8 Septembre,* 1858.

PRESENTS: Son Altesse Royale le Prince L. Kamehameha et MM. E. Perrin, R. C. Wyllie, et Crosnier de Varigny.

La séance a été ouverte à 11 heurs du matin.

Le Plénipotentiaire Français a aussitôt pris la parole, et après avoir rappelé que dans la matinée du 30 Août dernier, M. Wyllie lui avait demandé quelques explications que rendaient nécessaires les objections présentées par le Conseil Privé sur différents points

* Page 378.

du Traité négocié et signé à Honolulu, le 29 Octobre, 1857, puis ratifié par Sa Majesté l'Empereur des Français, le 20 Mars, 1858, il a déclaré avoir résolu chacune des objections produites conformément aux terms de ses pleins-pouvoirs et de ses instructions. Ces demandes et ces réponses ont été annexées au Protocole sous les Nos. 1 et 2.

M. Perrin ajoute que, le 31 du même mois, M. le Ministre des Affaires Etrangères Hawaïen lui avait notifié officiellement le refus de sa ratification, conseillé à Sa Majesté Kamehameha IV par son Conseil Privé (voir pièce No. 3) et les propositions faites au nom du Gouvernement Hawaïen d'un Article Additionnel au Traité susénoncé destiné à écarter l'opposition dudit conseil.

Le 2 du courant, M. Perrin accueillit officiellement la proposition qui lui était faite et accepta ledit Article *ad referendum* (voir pièce No. 4).

Le même jour, dans l'aprés-midi, M. Wyllie communiqua officiellement à M. Perrin le texte d'une nouvelle résolution du Conseil Privé, aux terms de laquelle le Roi Kamehameha IV était engagé, en vue de l'acceptation par le Plénipotentiaire Français de l'Article Additionnel annexé à ladite résolution (voir pièce No. 5) à donner une ratification conditionnelle au Traité sus-énoncé.

Le lendemain, 3 Septembre, M. Perrin, en accusant officiellement réception de la note de la veille qu'il venait de recevoir, refusa d'accepter la résolution dont il lui était donné connaissance, et rappela qu'il avait toujours demandé en échange de l'acceptation d'un Article Additionnel *ad referendum*, une ratification pure et simple.

Le soir du même jour, Sa Majesté le Roi des Iles avait fait parvenir au Plénipotentiaire de Sa Majesté Impériale par l'intermédiaire de M. Gregg, son Ministre des Finances, un message écrit qui appelait M. Perrin au palais le lendemain, 4 Septembre, dans la matinée.

Dans cette entrevue de plusieurs heures, des explications, aussi loyales que complètes furent échangées entre Sa Majesté Hawaïenne et le Plénipotentiaire Français; Le Roi Kamehameha en résuma lui-même la substance, par une sorte de transaction amiable, que M. Perrin n'hésita pas à accepter pour donner une nouvelle preuve de son ardent désir de contribuer de tous ses moyens à l'apaisement des passions soulevées. Ledit document, qui lie également les deux parties et est destiné à être honorablement compris, a été ici reproduit intégralement comme suit:

"*Honolulu, September* 4, 1858.

"It is agreed and distinctly understood by the undersigned Plenipotentiaries that the ratification of the Hawaïan Islands now being exchanged with that of the Emperor of the French, is full and unqualified upon all the points and Articles contained in the

Treaty concluded on the 29th October, 1857, not embodied in the Additional Article, proposed by the Hawaïan Plenipotentiaries and accepted by the Plenipotentiary of France *ad referendum*, and it is further understood and agreed that the King of the Hawaïan Islands reserves his rights of ultimate ratification upon all those points contained in the aforesaid proposed Additional Article.

PERRIN. L. KAMEHAMEHA. R. C. WYLLIE.

C'est dans cette situation, et en foi de ce règlement, que les Plénipotentiaires soussignés ont successivement apposé leurs signatures et leurs cachets:

1°. Sur 6 copies du projet d'Article Additionnel convenu * deux en Français, deux en Hawaïen, et deux en Anglais, ces dernières à titre de traduction. (Pièces ci-annexées sous les Nos. 6, 7, et 8.)

2°. Sur 3 copies en Français et 3 en Anglais, ces dernières à titre de traduction, de la solution sus-énoncée donnée par le Roi lui-même le 4 du courant, sur les difficultés soulevées par la résolution du Conseil Privé, en date du 2 courant (V. pièce No. 9).

Cet exposé terminé, les Plénipotentiaries soussignés procédèrent à la collation des 3 nouveaux textes du Traité du 29 Octobre, 1857, dressés par le Gouvernement Hawaïen, en Français, en Hawaïen et en Anglais, ce dernier texte à titre de traduction, et les ayant trouvés exactement conformes aux originaux, l'échange entre les 3 textes sus-énoncés, revêtus de la ratification du Roi Kamehameha IV et le texte Français revêtu de la ratification de l'Empereur, du Traité de Commerce et de Navigation, conclu à Honolulu, le 29 Octobre, 1857, entre leurs dites Majestés, fut immédiatement opéré.

Les Plénipotentiaires soussignés déclarèrent alors que si l'Article XXVI du Traité sus-énoncé a stipulé que ladite Convention resterait en vigueur pendant 10 ans, à compter du jour de l'échange des ratifications, l'Article XXVII du même pacte, à la suite d'une discussion ultérieure, a cependant décidé qu'en raison des prescriptions de l'Article VII du Traité conclu entre le Danemark et les Iles Hawaï, le 19 Octobre, 1846, le Traité dont les ratifications viennent d'être échangées ne serait mis à exécution que 12 mois après la date dudit échange, et que c'est en conséquence à compter de ce dernier terme seulement c'est-à-dire un an après la date dudit échange que commencera à courir le terme de 10 ans stipulé par l'Article XXVI.

Les Soussignés sont enfin convenus de fixer au jour de demain la publication dans le journal officiel le " Polynesian " du Traité du 29 Octobre, 1857.

* Le Gouvernement Français a formellement refusé de sanctionner ce projet d'Article Additionnel V, ci-après la notification du 16 Mai, 1859.

La séance fut levée à midi et les Plénipotentiaires s'ajournèrent sans époque déterminée.*

EM. PERRIN.
L. KAMEHAMEHA.
R. C. WYLLIE.

ANNEXE No. 1.—*Le Plénipotentiaire Hawaïen au Plénipotentiaire Français.*

Honolulu, August 30, 1858.

THE Undersigned, Minister of Foreign Relations of His Majesty the King of the Hawaïan Islands stated that certain doubts having arisen as to the true meaning of the Treaty with France, in several respects, it is desirable to solve them clearly, so as to remove, if possible, all objections to its ratification.

1. It was contended that the Treaty provided for the sale of intoxicating liquors to the King's native subjects, contrary to the Hawaïan municipal laws.

2. That the effect of Article XX will be to deprive the King's subjects, and the subjects of foreign nations, of all redress in the local tribunals, if their claims and the estate of a Frenchman deceased without leaving a will, should not be duly settled and paid by the Consul of France.

3. That the period of 10 years fixed for the duration of the Articles on navigation and commerce, would prevent any abbreviation of that time, even if the Government of France or the Hawaïan Government should wish, at a more early date, to adopt the principles of free trade, or otherwise liberalize their navigation or commercial policy.

4. That under Article III other foreign nations, on the ground of parity, will claim the same privilege of language, thus involving the King's Government in great expense for translations.

5. That doubts were entertained whether the respect to the laws and regulations of the country provided for in Article II was to be understood as equally applicable to other Articles.

6. That, under Article VIII of the Constitution, the ends of justice would be defeated, in any case where the evidence in court of the French Consul might be indispensable.

M. Em. Perrin. R. C. WYLLIE.

* V, ci-après, à la suite de l'Annexe 9 de ce Protocole, les deux pièces, l'une en date du 16 Mai, l'autre en date du 26 Mai, 1859, qui constatent, la première le refus de sanction par la France du projet d'Article Additionnel, la seconde la ratification pure et simple par le Gouvernement Hawaïen du Traité du 29 Octobre, 1857, avec suppression de ce même Article Additionel.

ANNEXE No. 2.—*Le Plénipotentiaire Français au Plénipotentiaire Hawaïen.*

Honolulu, le 30 Août, 1858.

LE Soussigné, Plénipotentiaire Français, a répondu de la manière suivante aux objections présentées par M. le Ministre des Affaires Etrangères:

1°. Il n'est jamais entré dans les intentions de la France d'intervenir dans le système des lois Hawaïennes qui règlent la vente des liqueurs aux indigènes, elle n'a pas davantage cette intention aujourd'hui. L'objet de l'Article X est de protéger les étrangers, les Français surtout, contre toute prohibition absolue et systématique, en laissant d'ailleurs toute liberté au Gouvernement Hawaïen pour la réglementation de ce commerce particulier.

2°. L'Article XX ne détruit pas le droit des créanciers Hawaïens, Français ou étrangers d'en appeler aux tribunaux du pays, dans le délai d'un an, s'ils croient avoir été lésés dans leurs droits sur la succession d'un Français mort *ab intestat*.

3°. Le droit de modification par consentement mutuel est inhérent aux Parties Contractantes; en faire l'objet d'une stipulation particulière serait imprudent, parce qu'on détruirait ainsi l'Article XXVI et parce qu'on retirerait au commerce les garanties accordées dans le Traité pour qu'il puisse se livrer à des opérations à long terme.

4°. M. Perrin a toujours nié le droit des Puissances étrangères à réclamer le privilége de l'adoption de leurs propres langues aux Iles Hawaïennes en vertu de l'Article III du Traité du 29 Septembre, 1857; c'est là une stipulation conditionnelle et non gratuite dont l'analogue ne peut plus se trouver. Cet Article contient l'une des conditions auxquelles la France a consenti à sacrifier le Traité du 26 Mars, 1846.

5°. Les lois et réglements auxquels se réfèrent les 4e et 5e paragraphes, de l'Article II sont notamment ceux qui déterminent les conditions auxquelles un étranger peut devenir commerçant aux Iles Hawaï, en payant une patente, ou se soumettant aux réglements de douane et de police locale. Le respect des lois et réglements du pays, par un étranger, est d'ailleurs un principe d'ordre public.

6°. L'objet du 2e paragraphe de l'Article XVII est de soustraire le Consul Français à toute comparution forcée devant les tribunaux du pays. Il est d'ailleurs libre d'apprécier les circonstances, et de comparaître librement, s'il l'estime inévitable, et s'il en est poliment requis par l'intermédiare du Ministre des Affaires Etrangères.

R. C. Wyllie, Esq. EM. PERRIN.

ANNEXE No. 3.—*Le Ministre des Affaires Etrangères Hawaïen au Plénipotentiaire Français, sur le refus de Ratification du Traité conclu le 29 Octobre*, 1857.

SIR, *Palace, August* 31, 1858.

I AM ordered by the King and his Cabinet to express to you, as I have now the honour to do, their deep regret that the ratification of the Treaty of October 29, 1857, was objected to yesterday by a majority of the King's Privy Council, although the question was presented to them on the 7th of June, and has been made the subject of a continual debate for many days.

The King has exerted himself to the utmost to prevent an adverse vote, and being desirous yet to remove all grounds of opposition, I am commanded to request of you such extension of time as His Majesty may require for that purpose.

It is the opinion of the King and his Ministers, that such an additional article, as I am authorized respectfully to submit to you, could be consented to by you, it would remove the scruples of those who object to the Treaty, and that to make sure of that result, after further reporting to His Majesty in Cabinet, every proper measure will be taken. I have, &c.

M. Em. Perrin. R. C. WYLLIE.

ANNEXE No. 4.—*Le Plénipotentiaire Français au Ministre des Affaires Etrangères Hawaïen.*

M. LE MINISTRE, *Le 2 Septembre*, 1858.

J'AI reçu hier la dépêche que vous m'avez fait l'honneur de m'écrire le 31 du mois dernier pour m'annoncer le profond regret avec lequel Sa Majesté et son Cabinet tout entier avaient vu le Conseil Privé Hawaïen s'opposer, malgré une longue étude et des débats prolongés, à l'échange des ratifications du Traité du 29 Octobre, 1857.

C'est avec un vif intérêt cependant que j'ai appris que le Roi, après avoir fait tous ses efforts pour prévenir un vote regrettable, n'avait pas perdu tout espoir de triompher de l'opposition faite, et que vous aviez reçu l'ordre de me demander après l'expiration du terme fatal fixé pour l'échange des ratifications, le délai nécessaire pour que Sa Majesté puisse atteindre le but qu'elle se propose.

J'accueille avec plaisir la demande dont vous aviez été chargé et estime qu'un ajournement à courte échéance sera considéré comme suffisant. Quant au projet d'Article Additionnel que vous avez été autorisé à me communiquer, en me faisant savoir que, dans l'opinion du Roi et de ses Ministres, son adoption par moi dissiperait les scrupules des opposants, je m'empresse de vous déclarer que prenant en considération les efforts de Sa Majesté et de son Conseil, pour vaincre les résistances qui se sont produites, j'accepte ce projet.

d'Article Additionnel, *ad referendum*, et le soumettrai par la première occasion à l'examen du Gouvernement de l'Empereur.

Je serai heureux d'apprendre de vous, monsieur, que cette nouvelle preuve de bon vouloir de ma part ait pu rendre à une situation, qui devenait beaucoup trop tendue, le caractère amical qu'il est dans les intentions de l'Empereur de lui conserver, aussi longtemps que le sentiment de sa dignité et des intérêts de la France le rendra possible. Agréez, &c.

R. C. Wyllie, Esq. EM. PERRIN.

ANNEXE. No. 5.—*Le Ministre des Affaires Etrangères Hawaïen au Plénipotentiaire Français.*

SIR, *Le 2 Septembre*, 1858.

I HAVE received and submitted to the King and his Cabinet your courteous reply of this date, and I have the honour to inform you, that its amicable tone is received by them as a new proof of the benevolence and consideration manifested by you as the Representative of the Emperor, in the peculiar circumstance to which you refer.

By command of the King and his Cabinet I have the honour to inclose to you the Additional Article, as approved by the King and his Cabinet and admitted by you *ad referendum*, as well as copy of the resolution by which the Privy Council have advised the King to exchange his ratification for that of His Majesty the Emperor of the French.

I have great pleasure in making known to you that that resolution was carried by an unanimous vote.

The King and his Government hope that this result will be as satisfactory to the Emperor and yourself as it is to His Majesty and his Cabinet.

In that hope, and for every other reason, I have the honour to repeat the assurance, &c.

M. Em. Perrin. R. C. WYLLIE.

ANNEXE No. 6.—*Résolution du Conseil Privé.*

Le 2 Septembre, 1858.

WHEREAS the Additional Article to the Treaty between His Majesty the King of the Hawaïan Islands and His Imperial Majesty the Emperor of the French, concluded on the 29th of October, 1857, proposed by His Hawaïan Majesty and his Cabinet to the Plenipotentiary of France, has been accepted by said Plenipotentiary *ad referendum*;

And whereas the said Additional Article obviates many of the objections which have hitherto prevented this Council from advising His Majesty the King to ratify said Treaty;

Therefore, be it resolved, that this Council do now, in the discharge of its duty under the Constitution, respectfully advise His Majesty the King to ratify the Treaty signed at Honolulu by his Plenipotentiaries, and by the Plenipotentiary of His Majesty the Emperor of the French, on the 29th of October, 1857, subject, however, expressly to the provisions and stipulations contained in said Additional Article, to stand as an integral part of said Treaty, which said Additional Article is in the words and figures following, to wit: (*fiat insertio* du texte annexe No. 8.)

CHARLES GORDON HOPKINS.

ANNEXE No. 7.—*Le Plénipotentiaire Français au Ministre des Affaires Etrangères Hawaïen.*

M. LE MINISTRE, *Le 3 Septembre*, 1858.

Je viens de recevoir la note que vous m'avez fait l'honneur de m'écrire sous la date d'hier, et No. 15. Je suis aise d'apprendre que la résolution prise au Conseil Privé le même jour, en faveur de la ratification du Traité du 29 Octobre, 1857, l'a été à l'unanimité.

Avant d'apposer ma signature cependant, au nom de mon Gouvernement, sur le procès-verbal d'échanges à opérer, il me reste à vous faire connaître quelques objections graves que soulève la rédaction que vous venez de me communiquer.

Je me suis engagé à accepter *ad referendum* le projet d'Article Additionnel joint à votre note, ainsi que j'ai eu l'honneur de vous l'annoncer hier, et que le constate la résolution du Conseil Privé; mais je n'ai jamais dit, ni verbalement, ni par écrit, qu'en agissant ainsi, je lierais définitivement, et dès le jour de l'échange des ratifications, le Gouvernement de l'Empereur, non-seulement quant à la nature de chacun des paragraphe de l'Article II, mais même quant à leur rédaction. Bien loin de là, j'ai toujours entendu réserver l'entière liberté des deux parties à ce sujet, et faire de l'Article Additionnel proposé l'objet d'une négociation spéciale et nouvelle.

La rédaction de la résolution du Conseil Privé est contraire, non-seulement à mes engagements officiels, mais encore au droit des gens lui-même, et il n'est pas possible qu'un Article Additionnel admis *ad referendum* lie immédiatement les deux Gouvernements, à l'insu de l'un des deux, sans discussion préalable, et contrairement à des instructions données. Je serais complétement désavoué par mon Gouvernement, si j'avais l'imprudence de me le permettre.

Je ferai connaître ici brièvement mon opinion sur chacun des paragraphe de l'Article Additionnel proposé, afin de prouver que son adoption à Paris a beaucoup de chances, pourvu que l'on veuille bien respecter la liberté du Gouvernement de l'Empereur, comme je suis disposé à respecter celle du Gouvernement Hawaïen.

L'adoption du paragraphe 1 paraît très-probable, sauf nouvelle rédaction;

Le paragraphe 2 est directement contraire aux instructions que j'ai reçues et devra être profondement modifié;

Le paragraphe 3 contient une stipulation presque inutile, en présence des termes précis de l'Article XVII; si le Gouvernement Hawaïen insiste, la concession qu'il demande pourra lui être faite sans difficulté;

Le paragraphe 4 est déjà accordé par ma note du 30 Août dernier, il n'y aura de débats possibles que sur la rédaction;

Le paragraphe 5, enfin, ne me paraît nullement nécessaire aux intérêts actuels de la navigation Hawaïenne. Le Gouvernement Français accueillera toutefois, volontiers, les leçons de l'expérience.

Je puis conclure de ce rapide examen que le Gouvernement Hawaïen a tout à gagner à s'en rapporter à celui de l'Empereur dans cette circonstance, à se conformer au droit des gens, à rester fidèle aux engagements verbaux pris, et à attendre d'une discussion nouvelle, régulièrement entamée, la solution de quelques difficultés secondaires.

Je terminerai en vous rappelant, M. le Ministre, que je vous ai demandé, en échange de l'acceptation *ad referendum* d'un Article Additionnel, la ratification pure et simple du Traité du 29 Octobre, 1857; je persiste dans ma demande et aime à croire que votre Gouvernement en reconnaîtra la parfaite justice.

Les intérêts Français sont en souffrance depuis longues années, il me semble que le Roi et ses Conseils ne doivent plus hésiter à s'engager définitivement, et sans retour vis-à-vis de la France, aux conditions que je viens d'indiquer. Agréez, &c.

R. C. Wyllie, Esq. EM. PERRIN.

ANNEXE No. 8.—*Article Additionnel pris et signé* ad referendum.*

Honolulu, le 4 Septembre, 1858.

CONSIDERANT qu'il est estimé que la construction littérale du Traité qui précède aurait pour effet d'abroger les lois du Royaume Hawaïen qui limitent au port de Honolulu la vente au détail des liqueurs, il est déclaré par les présentes que la véritable portée de l'Article X, dans l'intention des négociateurs, est de reconnaître au Gouvernement dudit royaume, le droit de réglementer ledit commerce à l'intérieur.

Considérant en outre que le Article III dudit Traité trouve sa justification dans la préférence légalement accordée à la langue Anglaise sur la langue Française, pour les rapports avec la Douane,

* Cet Article n'a pas été sanctionné par le Gouvernement Français. V. ci-après la notification officielle du 16 Mai, 1859.

il est convenu que la France cessera de réclamer le privilége par ledit Article, aussitôt que cette préférence légale sera abolie par le Gouvernement Hawaïen.

Il est convenu que l'exemption accordée aux Consuls par l'Article XVII du susdit Traité ne s'étendra qu'à leur comparution devant les cours de justice, en qualité de témoins, et que, conformément aux prescriptions du droit des gens, ils ne pourront s'en prévaloir, quand ils seront parties intéressées dans le débat.

Il est de plus convenu et arrêté d'un commun accord, que le droit d'administrer les biens d'un compatriote mort *intestat*, droit accordé aux Consuls par le susdit Traité, n'appartiendra qu'aux Consuls non commerçants: ce droit ne détruira pas celui de la justice territoriale de décider toutes les questions que pourront soulever les successions testamentaires ou *ab intestat*, non plus que d'accueillir les appels relatifs à ladite administration que pourront former les parties qui se considéreraient comme frustrées par la décision du Consul ou de son agent.

Il est en outre convenu et arrêté d'un commun accord que l'Article XIV dudit Traité sera interprété en ce sens que tous les navires reconnus comme Français par la loi Française seront considérés comme tels dans les ports du Royaume Hawaïen, et que tous les navires Hawaïens reconnus comme tels par la loi Hawaïenne, seront considérés comme navires Hawaïens dans les ports de la France et de ses possessions.

EM. PERRIN.
L. KAMEHAMEHA.
R. C. WYLLIE.

ANNEXE No. 9.—*Déclaration explicative sur la portée de la Ratification donnée par le Roi des Iles Hawaï.*

Le 4 Septembre, 1858,

IL est convenu et formellement entendu entre les Plénipotentiaires Soussignés que la ratification du Roi des Iles Hawaï qui va être échangée contre celle de l'Empereur des Français est entière et sans réserves, sur tous les points et Articles contenus dans le Traité conclu le 29 Octobre, 1857, qui ne se trouvent pas compris dans l'Article Additionnel proposé par les Plénipotentiaires Hawaïens et accepté par le Plénipotentiaire Français, *ad referendum;* il est de plus convenu et entendu que le Roi des Iles Hawaï réserve ses droits de ratification ultérieure sur tous les points mentionnés dans le susdit Article Additionnel proposé.

EM. PERRIN.
L. KAMEHAMEHA.
R. C. WYLLIE.

APPENDICE I.—*Notification du Plénipotentiaire Français au Ministre des Affaires Etrangères Hawaïen, sur le refus de sanction par le Gouvernment Impérial de l'Article Additionnel signé* ad referendum *le* 8 *Septembre*, 1848.

M. LE MINISTRE, *Honolulu, le* 16 *Mai*, 1859.

J'AI en l'honneur de soumettre au Gouvernement de l'Empereur, l'Article Additionnel en date du 4 Septembre dernier, que j'avais accepté, *ad referendum* et que votre Gouvernement aurait désiré de voir ajouter au Traité signé, le 29 Octobre, 1857.

Ce Traité, librement consenti par les Plénipotentiaires respectifs, revêtu de la ratification pure et simple de l'Empereur, le 20 Mars, 1858, ne pouvait plus être modifié, et c'est avec une pénible surprise que mon Gouvernement a vu le vôtre, Monsieur, demander successivement, en 1856 et 1858, soit de substituer sa Convention avec l'Angleterre au Traité du 29 Octobre, soit de subordonner sa ratification à l'adoption d'un Article Additionnel, destiné à mettre à néant plusieurs des dispositions les plus essentielles de notre dernier pacte diplomatique.

Les intérêts de la France et de l'Angleterre dans l'Archipel Hawaïen sont de nature différente, c'est là un fait dont l'oubli peut seul expliquer l'Acte du 4 Septembre, 1858.

C'est ainsi que l'Article X du Traité du 29 Octobre, qui rappelle un principe établi en 1839, et maintenu en 1846, qui rend inapplicable à un Français la loi du 20 Juin, 1851, rend aussi inadmissible le 1er paragraphe de l'Acte Additionnel proposé.

C'est encore ainsi que le 2e paragraphe du même Acte, qui tend à soumettre la France, quant à l'usage de sa langue aux Iles Hawaï, à un traitement différent de celui de l'Angleterre, est également inacceptable.

Le Gouvernement de l'Empereur ne comprend pas l'utilité de la disposition réclamée par le 3e paragraphe de l'Article Additionnel, puisque l'Article XVII du Traité est limitatif, et qu'il est impossible d'en faire ressortir par induction, d'autres dispositions que celles qui y sont spécialement déterminées. Il ne saurait non plus admettre les modifications radicales que consacrerait la disposition finale du 4e paragraphe du même Acte. L'intervention des autorités locales dans l'administration des successions Françaises doit être rigoureusement renfermée dans les limites prescrites par l'Article XX du même Traité.

L'objet essentiel de l'Article XIV enfin, est de prévenir les simulations de pavillon, tandis que celui du paragraphe 5 de l'Article Additionnel est, au contraire, de les favoriser. Cette différence dans la pensée des Parties Contractantes rend ce dernier paragraphe également inadmissible.

En résumé, les demandes contenues dans l'Acte Additionnel du 4 Septembre, 1858, sont en opposition complète avec la lettre et l'esprit du Traité lui-même, elles pourraient préjudicier d'une manière notable aux intérêts en vue desquels la négociation a été entamée ; c'est au nom de ces motifs que le Gouvernement de l'Empereur m'a chargé de notifier au vôtre, M. le Ministre, qu'il considère comme impossible d'accueillir de pareilles modifications.

Désireux cependant de donner un nouveau témoignage de l'esprit de conciliation qui l'anime, mon Gouvernement m'a autorisé à déclarer ici officiellement :

1°. Que l'Article X du Traité qui maintient le privilége garanti aux Français par les Conventions de 1839 et 1846, n'a nullement pour objet d'intervenir dans le détail de la réglementation intérieure du commerce des vins et des liqueurs aux Iles Hawaï ;

2°. Que l'exemption accordée aux Consuls de France par l'Article XVII, ne s'étendra qu'à leur comparution devant les cours de justice comme témoins, et ne les dispensera pas de comparaître comme parties ;

3°. Que l'Article XX doit être entendu dans ce sens qu'il n'accorde point aux Consuls négociants, le droit d'administrer la succession des intestats.

Dans la pensée du Gouvernement de l'Empereur, cette dernière preuve de sa modération l'autorise à espérer qu'aucune difficulté nouvelle ne viendra à surgir, au sujet d'un acte devenu aujourd'hui définitif, par l'échange des ratifications, et dont la promulgation va prochainement avoir lieu en France, pour qu'il soit régulièrement procédé à son exécution.

Cette notification clot, en ce qui me concerne, la négociation du Traité du 29 Octobre, 1857 ; elle rend inutile l'ouverture de toute nouvelle Conférence, la rédaction de tout nouveau document : je n'attends que l'adhésion officielle que je vous prie de me transmettre, au nom de votre Gouvernement, M. le Ministre, pour annoncer à celui de l'Empereur qu'il va être loyalement procédé à l'exécution des engagements internationaux réciproquement contractés.

R. C. Wyllie, Esq. EM. PERRIN.

APPENDIX II.—*Déclaration du Ministre des Affaires Etrangères Hawaïen en date du* 26 *Mai*, 1859, *sur la Ratification Pure et Simple du Traité du* 29 *Octobre*, 1857, *par le Roi Kamehameha et le rejet de l'Article Additionnel signé* ad referendum.

SIR,

HAVING submitted to the King, in his Cabinet, and also to His Majesty, in his Privy Council of State, your despatch of the 16th instant, I am authorized to reply that the King's Government gives its adhesion to the Treaty of October 29, 1857, and hereby declares its unconditional ratification thereof, without the proposed Additional Article, from the 8th day of September, A.D. 1858.

The King's Government understand that, in conformity with the wishes of the Imperial Government, expressed through you as their Plenipotentiary, in your said despatch, the official notification of adhesion now made closes all negotiations and conferences at the King's Court, in regard to the said Treaty, which they hope may work practically to the equal honour and advantage of both nations.

I have only to add, that I shall ever be willing to co-operate with you to secure that result, so desirable for both countries, and that I pray you to accept, &c.

M. E. Perrin. R. C. WYLLIE.

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CAPE OF GOOD HOPE.

No. 29.—Her Majesty's Commissioners to the Earl of Malmesbury.
(Received May 2.)

MY LORD, *Cape Town, March 22, 1859.*

WE have the honour to draw your Lordship's attention to a point of procedure in this Mixed Commission, on which we are desirous to be favoured with your Lordship's precise instructions.

A question arose in the first of the cases brought before this Commission last year as to whether an arbitrator, once elected by lot, should be the arbitrator throughout the entire case, or whether there should be a new ballot on each point of difference.

We informed our Portuguese colleagues that the opinion of the King's Advocate had been communicated to the Brazilian Commissioners, in 1831, to the effect that "a Commissioner of Arbitration having once been chosen in a particular case, he is the proper person to whom all subsequent matters of dispute in the same case ought to be referred;" and we pressed on our colleagues our desire to abide by that opinion.

To this the Commissioner and Arbitrator of His Most Faithful Majesty declined to accede, expressing their determination not to proceed with business rather than adopt it. Finding this to be the case, we did not feel justified in being a party to the latter alternative, as we were aware that it had been laid down by Lord Clarendon to the Havana Commissioners, that "instructions issued to a Commission under one Treaty are not binding upon the members of a Commission under a different Treaty;" and accordingly on that occasion, and subsequently, a fresh ballot was had, on different points arising from arbitration.

Latterly, however, on turning our attention more minutely to

[redacted]

We have called the attention of our colleagues to these decisions; but we still find them unwilling to change their views, to which they state their determination to adhere unless they receive instructions to the contrary from Portugal.

In future, we should not feel ourselves at liberty to depart from what we now know to be the recorded opinion of both the Governments of Great Britain and Portugal as to the construction of the Slave Trade Treaty. To prevent, therefore, any obstruction of business hereafter, we would request your Lordship that some instructions may be sought for from Portugal, to guide our colleagues on the point at issue; or that we may be otherwise directed by your Lordship. We have, &c.

GEO. FRERE.

The Earl of Malmesbury. FREDERIC R. SURTEES.

No. 30.—*The Earl of Malmesbury to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, June* 6, 1859.

I HAVE had under my consideration your despatch of the 22nd March last, and have consulted the proper Law Officer of the Crown upon the question therein submitted which has arisen between you and your Portuguese colleagues, as to whether an arbitrator once elected by ballot for the adjudication of a case, should undertake the arbitration throughout that case, or whether, as each point of difference occurred, there should be a new ballot for the election of an arbitrator.

I have now to state to you that a similar question having arisen in the Mixed Commission Court at Loanda in the year 1849, as is shown in the case cited by you, and both the British and Portuguese Governments having on that occasion placed on record their opinion that an arbitrator once elected should be arbitrator throughout the case, Her Majesty's Government are of opinion that neither party can recede from this arrangement, *reluctante altero;* and you will therefore be guided by this opinion in any case which may in future arise.

I have at the same time to acquaint you that I have instructed Her Majesty's Minister at Lisbon to request that instructions in the sense above indicated may be sent to your Portuguese colleagues in the Commission. I am, &c.

Her Majesty's Commissioners. MALMESBURY.

No. 33.—*Lord J. Russell to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 16, 1859.

WITH reference to your dispatch of the 22nd March last, I inclose for your information the accompanying copies of a despatch and its inclosure from Her Majesty's Minister at Lisbon, by which

you will perceive that the Portuguese Minister for Foreign Affairs has informed Mr. Howard, that instructions in conformity with the views of Her Majesty's Government will be sent to the Portuguese Commissioner at the Cape in regard to the election of an arbitrator in cases of difference arising between you and your Portuguese colleagues.

I am, &c.

Her Majesty's Commissioners. J. RUSSELL.

LOANDA.

No. 53.—Her Majesty's Acting Commissioner to the Earl of Malmesbury.
(*Received June* 1.)

My Lord, *Loanda, February* 23, 1859.

I think it my duty to lose no time in bringing under your Lordship's notice a translation of the sentence of the Court of Relação at this place on an appeal from the judgment of the Juiz de Direito in the case of the well-known slave-trader Benito Derizans, which has just been published in the "Official Boletim" of this province.

The importance of this document will at once be apparent to your Lordship. It lays down the principle that the penalties imposed for smuggling are to be applied to the individuals composing the crews of vessels equipped for and engaged in the Slave Trade, and that in order to render these delinquents liable to the punishment awarded in Article XIX of the Decree of the 10th December, 1836, it is necessary that slaves should actually be on board the vessel at the time of capture.

This judgment is founded on Article VII of the above-mentioned Decree.

I beg your Lordship's attention to the arguments by which the provisions of that Article, which refer exclusively to the examination by the civil authorities of vessels fitting out in the ports of Portugal to navigate to Africa, and the penalties incurred by the parties concerned in such vessels, if found with articles on board to indicate a design of employing them in the Slave Trade, are applied to the individuals found on board ships detained on this coast completely equipped to receive slaves.

For the full particulars respecting the capture and condemnation of the vessel on board of which Benito Derizans was found, and the sentence subsequently pronounced by the Juiz de Direito on this individual and others composing her crew, I beg to refer your Lordship to the despatches from this Commission, dated the 23rd of February, the 4th of March, and the 1st of July, 1856.

The vessel, which was discovered to be the *General Pierce*, so frequently mentioned in the correspondence of Mr. Howard, formerly Her Majesty's Minister at Rio Janeiro, was condemned on the ground that "it was proved that she was destined for the traffic in slaves."

Benito Derizans was on board, in the ostensible capacity of passenger, but in reality he was the captain and the principal manager of the enterprise. This man's name has frequently appeared in the correspondence relative to the Slave Trade presented to Parliament. So far back indeed as 1838 he appears to have been pursuing his criminal and lawless career, having been then concerned in the Spanish vessel *Constituição*, condemned in the Mixed Court at Sierra Leone; and in a despatch from Her Majesty's Commissioners at that place, dated 16th June, 1842, he is again reported as being the captain of the brigantine *St. Antonio*, condemned in the British and Brazilian Mixed Court in that colony.

His Excellency Senhor Luiz José Mendes Affonso, the President of the Court of Relação, is the same functionary who, in the inaugural address, an extract of which I had the honour to transmit in my despatch of the 9th of December, 1856, stated that "the criminals engaged in the nefarious and cruel traffic in slaves would receive the special attention of that tribunal, in order that all the severity of the laws now in force might be duly inflicted upon them."

He is the same authority also who proposed to the Portuguese Government that the highest grade of punishment, short of capital, should be attached to the crime of slave-dealing, as reported in a despatch from this Commission dated 16th October, 1856. Your Lordship will be enabled to judge how far he has acted in this case with that vigour and in that humane and honourable spirit which might have been supposed to have dictated these assurances and proposals.

Senhor José Julio Rodrigues, Senior Judge of the Court of Relação, is now the Portuguese Commissioner to whom, in conjunction with myself, has been confided the duty of carrying into execution the Treaty of 1842 against Slave Trade.

The last paragraph of Article IX of that Treaty says, that any one or more of the several articles of equipment therein enumerated, if proved to have been on board a captured vessel, shall be considered *primâ facie* evidence of her actual employment in the traffic in slaves; and by Article XV that trade is declared to be piracy, and Portuguese subjects who shall, under any pretext whatever, take any part therein, are to be subjected to the most severe secondary punishment.

The sentence, a *translation* of which I have now the honour to

hand your Lordship, is not only, I believe, without precedent in the records of the tribunals at this place, but it is one, the publication of which cannot fail, in my humble opinion, to produce the most pernicious effects in regard to the final eradication of the Slave Trade in the Portuguese possessions on this coast. The crew of the barque *Velha Annita*, captured and condemned under circumstances similar to those of the *General Pierce*, who are now in confinement in the criminal prison in this city, pending the result of an appeal to the Court of Relação, will, probably, on the principle laid down in this sentence, be set at liberty; and it is, I apprehend, much to be feared that whilst slave adventures can be conducted by Portuguese subjects, without other risk, until the slaves are actually embarked, than the loss of the money which may be employed in fitting out their expeditions and a trifling fine, many unprincipled men will readily be found to engage in pursuits which offer to them the prospect of such great pecuniary advantages as invariably follow the successful issue of transactions of this description.

I feel convinced, however, that the enlightened Government of His Most Faithful Majesty could never have contemplated such an interpretation of the law as has now, for the first time within my experience, been established by the Court of Relação; and I do not entertain a doubt but that a knowledge of the facts which I have now the honour to report, submitted, as I respectfully hope they will be, with a strong representation from your Lordship, will produce measures calculated to remove the existing defects in the Portuguese legislation on this important matter, and to deter notorious criminals like Benito Derizans from re-engaging in a traffic solemnly prohibited by the Treaty between the two Crowns.

I have, &c.

The Earl of Malmesbury, EDMUND GABRIEL.



Decree of the 10th December, 1836,* are considered as indications of her being intended for Slave Trade, was captured off Benguela Velha, and condemned by the Tribunal of Prizes, as seen by the sentence at folio 3.

Considering, however, that the aforesaid penalty which is established by Article XIX of the said Decree of 10 December, 1836, is applicable only to cases in which the crime has been consummated, as is shown by the words of the said Article, "any exportation or importation of slaves has taken place"—an hypothesis which is not verified by these autos, inasmuch as no slaves were found on board the vessel in which the plaintiff was embarked; nor is it proved that any had been exported or imported in her, which it was requisite to prove, in order that the above-mentioned penalty should be awarded; a penalty which is limited to cases in which the crime has been consummated.

But there having been found only some articles which, if they are considered by the above cited Decree as indications of the vessels being intended for the Slave Trade, establish nothing more than a simple project or attempt at crime, and not its consummation, it is evident that the offence to which this process refers cannot be considered other than mere contraband, according to Article VII, section 1, of the said Decree, wherein it says, "If, however, any articles indicative of her destination for the Slave Trade be found, they shall be seized as contraband." In such a case the penalties specified in Article XVII are to be applied, notwithstanding its being alleged that that Article relates only to vessels which are fitting out in other parts of the monarchy to navigate to Africa, because the law does not make this distinction in the general terms which it uses—"in the other ports of the kingdom."

The captured ship, on the contrary, being found in one of those ports under the circumstances mentioned in Article VII, and not those specified in Article XIX and its sections, and as the penal laws, moreover, principally in doubtful cases, ought to be interpreted and applied with lenity, it follows that the penalty prescribed in Article XIX, section 2, cannot be imposed on the plaintiff, but that Article XVII, in reference to Article VII of the Decree of the 10th December, 1836, ought to be applied to him.

Further, it is not proved that the plaintiff was navigating the seas with a view of committing robberies or violences in order to render him liable to the provisions of Article CLXII of the Penal Code, nor is it proved that he was merely a passenger on board the captured ship; the contradictory answers given by him to the interrogatories, where he confesses to having conducted the ship during the whole time the captain was ill, and that the crew then obeyed

* Vol. XXIV. Page 782.

him, showing that he assisted in the crime, and thereby rendered himself liable to the provisions of the said Article XVII, and to Article CCLXXIX of the Penal Code.

On these grounds the Court reverses the sentence appealed, and condemns the plaintiff in the loss of the articles captured, in two years mulct at the rate of one milreis per diem, and in the costs of suit, the bond on payment of these several sums.

J. J. RODRIGUES.
MENDES AFFONSO.
J. M. COSTA.

No. 77.—Her Majesty's Commissioner to Lord J. Russell.
(*Received December 4.*)

My Lord, *Loanda, September* 20, 1859.

It is my disagreeable duty to acquaint your Lordship that the traffic in slaves, under the flag of The United States, is now prosecuted on this part of the coast to an amazing extent, and with greater impunity than ever; no less than seven vessels wearing that flag, and employed in the Slave Trade, having been met by Her Majesty's cruizers on this division of the station within the last two months. They were the brigantine *Brownsville*, brig *William M. Grotton*, brig *Lillie Mills*, barque *Ottawa*, barque *Star of the East*, ship *Memphis*, barque *Florence*.

Although the intention with which these vessels arrived on this coast was well known to Her Majesty's officers, they, being all furnished with regular American papers, were allowed to proceed unmolested in the prosecution of their voyages, and nearly all of them have since shipped slaves.

The American ship *Rebecca* has lately arrived in the River Congo, sent out by the firm of Pratts, Pujol, and Co., of New Orleans, to



American navy, and my experience of the enlightened spirit by which they are actuated, I had been strongly inclined to hope he would have done.

Her Majesty's steamer *Triton* was in the harbour at the time; and it was with much pleasure that I heard from her Commander that an arrangement had been made for sending the boats of the *Vincennes* on board that steamer in charge of two American officers, to examine any of the suspicious vessels she might fall in with. This plan, however, could hardly have been attended with any successful result, as the corvette sailed hence the following day to communicate with the *Triton*, and receive on board her boats. She then proceeded to show herself along the coast, and departed for the Cape Verd Islands and Madeira.

The system of cruizing at present adopted by The United States' squadron on this station is wholly inadequate, my Lord, to check the perpetration of the crimes now carried on under the protection of the flag of that country. Since the 1st January of this year, three heavily-armed American corvettes have made their appearance at different times in this quarter; and running along the coast from this port to the Congo or Cabinda, immediately returned again to the Cape Verd Islands. After these cruizes, or more properly speaking, voyages, an interval of 3 or 4 months usually elapses, during which no American cruizer is seen on the coast; and the slave-traffickers then redoubling their efforts, numerous vessels escape.

It has been reported to me, on authority which I believe to be trustworthy, that in the 8 months which have transpired of this year, although Her Majesty's cruizers have been more than ordinarily successful, no fewer than 17 vessels have succeeded in effecting their escape from the coast lying between Cape Lopes and Ambriz, carrying off 12,750 slaves, and that 13 of those vessels arrived on the coast wearing American colours, 5 of which were pretended whalers.

It is evident that the slave-traders are daily more and more presuming upon the perfect security afforded them in carrying on their iniquitous operations by the adoption of The United States' flag. Slave-vessels protected by that flag are continually making successful voyages, and returning to the same place for fresh cargoes; and experience has now shown that, unless some energetic and effective measures can be adopted to correct this evil, all the sacrifices made by Great Britain for the suppression of this traffic must be rendered nugatory. I have, &c.

Lord J. Russell. EDMUND GABRIEL.

(*Inclosure* 1.)—*Her Majesty's Commissioner to Commander Totten, U.S.N.*

SIR, *Loanda, August* 21, 1859.

I HAVE the honour to acquaint you with its having come to my knowledge that the following vessels, wearing the American flag, have lately arrived on this part of the coast for the purpose of embarking slaves for the Island of Cuba: the brigantine *Lillie Mills*, barque *Ottawa*, ship *Memphis*, barque *Star of the East*, barque *Ilha de Cuba*.

The first-mentioned vessel was fallen in with by Her Majesty's steamer *Triton*, in the River Congo, a few days since, and the *Ottawa*, *Memphis*, and *Star of the East* are reported to me to be awaiting an opportunity to ship slaves in Bahia Fonda, where they have been twice frustrated in their iniquitous intentions by the vigilance of Her Majesty's cruizers.

You are doubtless aware, Sir, of the difficulties which Her Majesty's officers have to contend with in restraining the very great extent to which the traffic in Slaves is now carried on upon all parts of the coast lying between this city and Cape Lopes, in consequence of the deplorable and flagrant manner in which the flag of America is abused in the prosecution of that illegal trade.

From all the reports which reach me, it would appear that the slave-traders are more and more convinced that they are protected by that flag; but I venture to assure myself that a knowledge of the above circumstances will induce you to take effectual measures to prevent it from being used with impunity in a traffic which not only becomes every day more abhorrent to the spirit of the age, but is solemnly prohibited by the Treaties between Her Majesty and The United States of America. I have, &c.

Commander Totten. EDMUND GABRIEL.

(*Inclosure* 2.)—*Commander Totten, U.S.N., to Her Majesty's Commissioner.*

SIR, Vincennes, *St. Paul de Loanda, August* 23, 1859.

I HAVE the honour to acknowledge the receipt of your letter of the 21st instant.

The information therein contained in relation to vessels on this coast supposed to be slavers had already been communicated to me by Commodore Wise, of Her Majesty's ship *Vesuvius*.

As I am about to leave this port, and have not the requisite time to reply to your letter as fully as I would wish, I must content myself by simply reminding you that the Goverment of The United States claims to be quite competent to correct any deplorable and flagrant abuses of their flag on this or any other coast; and also that the Commanders of The United States' vessels on this coast

need no other advice or inducements than are contained in the instructions received from their own Government for the performance of their duties. I have, &c.

Her Majesty's Commissioner. B. J. TOTTEN.

No. 83.—Her Majesty's Commissioner to Lord J. Russell.
(Received January 24, 1860.)

My Lord, *Loanda, November 18, 1859.*

I have the honour to lay before your Lordship copies of a correspondence which has been exchanged between the Governor-General and myself, having reference to the recent proceedings of Her Majesty's cruizers on this part of the station, for the suppression of the Slave Trade; and more particularly to a transaction of Her Majesty's steamer *Viper*, Commander Hewett, in bringing into this port a boat called the *Barboleta*, which was met in the River Congo, wearing the Portuguese flag.

I likewise transmit a letter which I received from Commander Hewett on the 29th ultimo, and its inclosures relating to the detention of the boat in question, and her delivery to the Portuguese authorities here.

Your Lordship will perceive that Commander Hewett did not detain the *Barboleta* on the ground that she was equipped for the Slave Trade, but solely on the instructions under which Her Majesty's naval officers on this part of the coast are acting, to the effect that the passports granted by the Government of this province to small craft engaged in the coasting-trade require to be renewed annually, which had not been done in her case, the passport with which she was furnished being dated the 17th April, 1858.

When this matter was brought under my cognizance, I immediately turned my attention to the regulations now in force regarding the issue of passports and other documents requisite for the navigation of vessels employed in the coasting-trade of this colony; and on doing so, I found that the system of renewing these passports annually, as prescribed in the Ordinance of the 24th June, 1848, a copy of which was transmitted in Mr. Consul Brand's despatch to Viscount Palmerston dated the 26th September, 1850, had been abolished by order of the Government of His Most Faithful Majesty so far back as 1854. It appears to me probable, therefore, that the instructions in this matter, under which the Commanders of the cruizers on this division of the station are now acting, were issued in conformity with the old *régime;* and that the Commander-in-chief not having been made acquainted with the above-mentioned alteration in the local regulations on this subject, had not cancelled or revoked the orders of his predecessors as he otherwise would have done.

Having duly considered this matter, I deemed it advisable, with view, if possible of avoiding any just cause of complaint, not only to lay the facts forthwith before the Commander-in-chief of Her Majesty's Naval Forces, but at the same time to suggest to the senior officer in command of this division of the squadron, the expediency of his suspending the execution of so much of the Admiral's instructions as relates to the necessity of the passports in question being renewed annually.

I take leave to inclose copies of my letters to the Honourable Sir Frederic Grey and Captain Courtenay, together with translations of the Portaria of the Portuguese Minister for Foreign Affairs, dated the 29th May, 1854, repealing the regulations which had up to that period been in force regarding the duration of passports granted by the Colonial Government to coasting-vessels; and as I have been obliged to act entirely upon my own responsibility in this matter, I venture to hope that your Lordship will not see reason to disapprove of the course which I have adopted.

It is very remarkable, my Lord, that although the Rear-Admiral Commanding-in-chief and Commodore Wise, when here in June last, both pointed out to the Governor-General the great facilities which are now afforded to the operations of the slave-traders, by the numerous launches and small craft employed on the coast adjacent to the Congo river, and furnished with papers from the Government of this province, and particularly drew Senhor Amaral's attention to the necessity of warning the owners of those craft in regard to the annual renewal of their passports, his Excellency did not take exception to the views then expressed by those officers; on the contrary, he replied that he would readily accede to their wishes in regard to the warning to be given to Portuguese subjects trading to the North. It would appear, therefore, that the Governor-General must either have misunderstood the observations made by Sir Frederic Grey and Commodore Wise, or have strangely overlooked the orders of his own Government on this subject.

With reference to the statements made by Senhor Amaral of alleged vexatious and improper mode of proceeding of British cruizers towards launches and small craft carrying on a lawful trade, I do not consider it advisable to enter into any discussion with his Excellency on this subject, as Her Majesty's naval officers are amenable only to their Commander-in-chief; but I beg to assure your Lordship that I am not aware of any instance in which they have so grossly abused their authority as the Governor-General would make it appear, nor of any case having occurred which could justify the charges brought against them by his Excellency, and in support of which he has failed to adduce any proof.

I beg leave, in conclusion, to solicit your Lordship's particular

attention to the gross perjury committed by the owner of the *Barboleta*, as set forth in the inclosed papers. The sworn protest of that individual, an authenticated copy of which has been sent to me by Senhor Amaral, is a tissue of falsehoods and misstatements. It did not appear to me proper, therefore, that Pamplona should be allowed to escape the consequence of this crime in the same manner as he had hitherto been exempted from the penalties of the law, despite his long and notorious connection with the Slave Trade in the Congo; and I therefore proposed to the Governor-General that he should immediately order the Public Prosecutor to institute proceedings against that individual for the above-mentioned crime. Her Majesty's steamer *Viper* is still on this part of the station, and the depositions of her officers and crew can easily be obtained, as well, I hope, as the evidence of other parties in the Congo; and I beg to assure your Lordship that, should I find his Excellency disposed to promote the execution of the law, I shall use my utmost efforts to insure Pamplona's being visited with its fullest severity.

It is right I should here mention that this Joaquim Martins Pamplona is one of the individuals whose names appear as the shippers of slaves on board the American vessel *Mary E. Smith*, in 1856, according to a document found in the possession of a passenger on board that vessel, a translation of which was transmitted by Mr. Consul Morgan to the Earl of Clarendon, in his despatch dated the 8th March of that year.

I have, &c.

Lord J. Russell. EDMUND GABRIEL.

(*Inclosure* 1.)—*The Governor-General of the Province of Angola to Her Majesty's Commissioner.*

(Translation.) *Palace of the Government, Loanda, November* 4, 1859.

EXCELLENT SIR,

THE coasting-trade to the north, both in Portuguese and native vessels, is now the object of unheard-of violences on the part of Her Britannic Majesty's cruizers.

These violences would be incredible were not some of them proved to evidence; and consequently the numerous complaints which have arrived here in this respect are worthy of all credit.

I had, only a short time since, to address myself to you respecting the appropriation of a Cabenda launch by the Commander of the steamer *Pluto*, because the owner would not accede to his demand for 15,000 billets of wood as a ransom.

That launch had been detained by a boat belonging to the steamer *Vesuvius*, and scuttled with all her crew on board, who, with great risk to their lives, succeeded in swimming on shore. The launch being found floating about in this state by the first-mentioned

steamer, her restitution was made the ground of the unqualified demand above stated. Thus one Commander took the launch and endeavoured to destroy her; the other prevented this destruction and offered to annul entirely the act of the first by exchanging her for a supply for his ship. Without any commentaries on these facts, I will only observe that the proceeding of the Commander of the *Pluto* shows most manifestly the injustice committed by the Commander of the *Vesuvius* in taking the launch.

To-day I have to occupy your attention with another case yet more extraordinary. It is that of the boat *Barboleta*, brought to this port by Her Majesty's steamer *Viper*, on no other ground than that of an imaginary defect in her passport, and of the loose allegations that all these small vessels assist the traffic in slaves on the coast to the north. Inclosure No. 1 is, you will find, an authentic copy of the despatch on this subject addressed to me by the Commander of the above-mentioned steamer, and No. 2 a copy of the reply which I returned to him. The particulars of this case are as follows:

The boat *Barboleta* belongs to Joaquim Martins Pamplona, merchant of Loanda, who has factories in the Congo and to the north of that river. She was employed in running between these factories, transporting goods for trade and provisions for the sustenance of the people. She was furnished by this General Government with all the papers requisite for her legal navigation. Leaving the river Congo on the 12th ultimo, bound to the said factories to the north, and having on board the licit cargo above referred to, she was detained by the Commander of the *Viper*, who, putting the crew on shore, took her in tow and brought her to Loanda, to place her at my disposal.

I have already stated that one of the grounds upon which the Commander of the *Viper* acted, was his imagining that the passports of coasting-vessels ought to be renewed annually, and observing that that of the boat *Barboleta* was dated more than 12 months previously. Before proceeding further, I must observe that the British cruizers have no right to supervise the execution of the regulations of Portuguese navigation. Such a pretension is an innovation on the national dignity and independence. Admitting that the passport of that craft was irregular, this circumstance could not be within the jurisdiction of the Commander of a foreign ship of war, but only of the authorities and of the Commanders of the ships of His Most Faithful Majesty. The mission of the British cruizers is limited to the suppression of the traffic in slaves. The manner of carrying this out is prescribed in the Treaty of 3rd July, 1842. Any act practised beyond the provisions of that Treaty against the liberty of Portuguese navigation is illegal and arbitrary,

and the British Government becomes responsible for the indemnification of all losses and for inflicting upon the capturing officer a punishment proportioned to the transgression which he has committed. This is clearly expressed in Articles IV and VIII of the said Treaty.

It is certain, however, that the passports of the coasting-vessels of this province are permanent, since the determination of the 22nd April, 1856, published in the official "Boletim" of the Government No. 552 of the 26th of that month and year. This circumstance is an aggravation of the proceeding on the part of the Commander of the *Viper*, inasmuch as he not only mixed himself up in that which was not within his competence, but he did so in inexcusable ignorance of the acts which regulate the subject in which he interfered; I say inexcusable, because it is his duty, as a cruizer on this coast, to be cognizant of the dispositions which regulate the Portuguese navigation, in order that, in the discharge of any duties which may legitimately devolve upon him in regard to that navigation, he may not, as a cruizer, offend against the same.

Another motive which appears to have influenced the Commander of the *Viper* in detaining the boat *Barboleta*, is the conviction, which he says he entertains, that the coasting vessels generally assist in Slave Trade operations to the North.

I do not know how far this opinion may be correct. That which I do know is, that it cannot justify any violences against those vessels, without sufficient proof of the crime imputed to them. And, moreover, it being certain that the embarkation of slaves cannot be effected without the intervention of ships, with a little stretch of this argument you might arrive at the conclusion that it would be desirable to destroy all the latter, as the readiest and most energetic means of impeding the traffic.

Now if the intervention of coasting vessels in the traffic in slaves is so frequent as it is said, it appears clear that their capture under flagrant circumstances connected with this traffic, ought to be very easy. The fact is, however, that the Mixed Commission in Loanda has been dormant for some years, without having had a single Slave Trade case to adjudicate.

I cannot omit to call your most serious attention to this very important matter. It is indispensable that the British cruizers should be convinced, once for all, that the arbitrary acts committed by them under the pretence of repressing the traffic in slaves, are offensive ("revoltantes")! I have related the particulars of the two cases of the Cabenda launch and the boat *Barboleta*. They are not all. The crew of this boat, consisting of Cabendas, were put on shore amongst the Mussorongos, in the Congo. Every one knows

that these negroes consider the blacks of any other country who may fall into their hands as slaves. It is known, also, that the owner of the boat will have to ransom those unhappy Cabendas at a great expense, otherwise no more Cabendas will ever enter his service. For this and other losses, as well as for the unhappy position in which the said crew were placed, who is to blame if it be not the Commander of the *Viper*, who acted with so much indiscreet zeal or with so much inexcusable levity?

There is another circumstance I have yet to mention, and not without great repugnance. The boat had a cargo of goods and provisions when she was detained, as stated by her owner. The Commander of the *Viper* declares, in the document that she had no cargo, and not even provisions for her crew on board.

Inclosure No. 4 is, you will find, an authentic copy of the protest made against the Commander of the *Viper* by the owner of the boat *Barboleta*.

I said in the beginning of this despatch that numerous complaints have been made similar to those which I have now particularized; hence the commercial body of Loanda is complaining, because it considers that there is no security in embarking in the most licit speculations to the north, where the British cruisers persecute the coasting vessels, as if cruizing against them ("andar a corso d'ellas") was their real mission.

With respect to the native boats, I cannot omit also to say something, whether from the right, which it behoves me to sustain, of considering them as Portuguese boats, if belonging to individuals residing south of 5° 12 latitude, or from the right of advocating their just interests, which is the duty of every functionary of a civilized nation, independent of every other consideration.

These native boats have suffered an atrocious persecution: now they are taken for the want of papers; then, having such papers, under the pretext that their owners, negroes of Cabenda, or other points north of Ambriz, cannot be considered as Portuguese. It is rarely that there is any real ground for suspecting them of participation in the Slave Trade.

For the destruction of these vessels, is it sufficient that they should carry articles of food, some boards, &c.; the former because it is supposed that they might be intended for the supply of slave-ships; the boards because they might be used in making arrangements for the reception of slaves? These facts enunciate themselves; they require no analysis.

But supposing it to be true that the coasting vessels to the north frequently interfere in the traffic in slaves, are the causes which incite and promote this intervention unknown? and if they

are not unknown, why are not those causes directly combated as the most efficacious means of removing their effects?

It is known that the embarkation of slaves to the north is made almost exclusively in ships of the United States of America. In the Congo there exists a French factory for the engagement of free negroes. It is needless to point out that if those vessels did not engage in the traffic, the coasting craft could not assist in that traffic. The means employed for the engagement of those free negroes being the same as those employed to obtain slaves, it is likewise manifest that this French enterprise must tend to preserve the former dispositions for the reproved traffic in slaves.

It is beyond doubt that neither the French nor American Governments wish to promote these dispositions, but it is not less certain that, in point of fact, they would no longer be promoted if, on the one part, a strict supervision was kept in the ports of The United States upon the ships suspected of being destined for the traffic in slaves, and if, on the other, the French Government would abandon the above-mentioned enterprise.

Undoubtedly the British Government would demand this from the Portuguese Government if either of those cases occurred with it, as it has demanded the assent of that Government to other measures concerning the abolition of this traffic, and as it has done with the Government of Brazils and other nations. Why, therefore, is not the same done with France and The United States?

It is impossible to suppose that the difference of force should explain the difference of proceeding; for in that case the sanctity of right would be more than problematical.

Be this as it may, it is certain that the navigation of this province and its commerce are suffering the greatest and most unjust losses by the unqualified abuses committed by the British cruizers. I have related some of them. Of many others I hope to obtain full particulars.

For all, I protest in the most solemn manner against the said cruizers, whose proceedings, evidently in excess of the stipulations of the Treaty of the 3rd July, 1842, I am about to bring to the knowledge of His Most Faithful Majesty's Government, which will certainly obtain from the Government of Her Britannic Majesty due reparation, and effectual measures to prevent the repetition of such abuses. God preserve, &c.

JOSE RODRIGUES COELHO DO AMARAL.

Her Majesty's Commissioner.

(*Inclosure* 2.)—*Her Majesty's Commissioner to the Governor-General of the Province of Angola.*

SIR, *Loanda, November* 7, 1859.

I HAVE had the honour to receive your Excellency's letter of the 4th instant, referring to the proceedings of Her Majesty's naval officers employed in the suppression of the Slave Trade on the coast north of this city.

With regard to the case of the Cabenda launch, destroyed by Her Majesty's steamer *Pluto*, I have only to observe that, as I see no reason for departing from the proper and established custom of submitting such matters to the head of that branch of Her Majesty's service concerned therein, I must therefore beg to refer your Excellency to my despatch of the 26th ultimo, and to add that, in fulfilment of the assurance therein given, this matter has been brought by me under the notice of the officer commanding Her Majesty's naval forces on this coast.

Respecting the case of the boat *Barboleta*, brought into this port by Her Majesty's steamer *Viper*, and delivered over to your Excellency, I shall proceed to offer a few remarks.

It appears to me that there has been some error or misunderstanding in regard to the necessity for the passports furnished by the Government of this province to coasting vessels being renewed annually. This question having been recently agitated, and the instructions under which Her Majesty's officers are acting in regard thereto having been brought to my knowledge, I have referred to the orders and regulations now in force on this subject, and I find by a Portaria of His Most Faithful Majesty dated 29th May, 1854, which was published in the official "Boletim" No. 477, of the 18th November, 1854, that the passports granted by this Government to colonial coasting vessels, which, prior to the date of that Portaria, were limited in duration, have since been considered to all intents permanent as royal passports. The instructions to Her Majesty's officers, however, point out that the passports in question require to be renewed annually. These instructions were, no doubt, issued in ignorance of the above-mentioned alteration in the law regulating the coasting trade in this province, and I shall therefore hasten to communicate this circumstance to the Rear-Admiral Commanding-in-chief on this coast, and to lay before him a copy of the Portaria referred to.

I shall also lose no time in suggesting to the officer now in command of this division of the African squadron the expediency of his suspending the execution of so much of his instructions regarding Portuguese coasting vessels as relates to the necessity of their passports being renewed annually, until this matter has been arranged between the two Governments.

Commander Hewett resolved upon bringing the *Barboleta* into

this port, and delivering her over to your Excellency, on the ground that her passport, being dated more than a year previously, was invalid. Whether, under all circumstances of the case, there was sufficient reason for such a proceeding, it is not for me to say; but I believe that he did so from a conviction that he was acting in strict accordance with his instructions, and I cannot refrain from adding the expression of my regret that this act of a British officer should have been the cause of so much dissatisfaction on the part of your Excellency.

It cannot be seriously supposed that any infringement on the dignity and independence of the Portuguese Crown was intended, or that the proceedings of Commander Hewett had any other object in view than that of facilitating the efficient performance of a duty to which the Governments of Great Britain and Portugal are mutually and solemnly pledged.

The open and notorious assistance which is given to the Slave Trade by these small coasting craft to the north, not only in embarking slaves, but in conveying them from one depôt to another along the coast, renders it necessary for Her Majesty's officers to be very assiduous in watching and examining them; and I must add that, from the reports which reach me, it would appear that their owners, independent of the renewal of their passports, are extremely neglectful in regard to the other papers with which some of them are furnished by the Portuguese authorities at this place.

Upon the well known criminal pursuits of the individual who owned the *Barboleta*, I presume it is unnecessary for me to offer any observation. His name has already been brought by me under your Excellency's notice as one of the shippers of slaves in the American vessel *Mary E. Smith*, captured on the coast of Brazil in 1857; his character, therefore, is, beyond all dispute, if not legally, at least morally, proved, and it is generally reported at this place that his establishments to the north are maintained for Slave Trade purposes.

It is stated, on oath, by Senhor Pamplona in his protest, a copy of which your Excellency has sent me:

1st. That his boat was proceeding from the River Congo to his factories to the north when detained by the *Viper*.

2ndly. That she had on board a cargo of goods and provisions.

3rdly. That her crew were landed among the Mussorongos.

Now, I beg to state, in the first place, that the *Barboleta* came down the River Congo for the sole purpose of communicating with Her Majesty's steamer *Viper* to ascertain the particulars respecting another boat, which was then under examination by that vessel, and subsequently released; secondly, that she had not, under these circumstances, a single particle of cargo on board when she went

alongside Her Majesty's steamer, and, intending as she did to return to Ponta da Lenha immediately, it appears quite natural that she should have had no provisions on board; and, lastly, that the crew, consisting of two white men and three or four negroes, were transferred to the boat released as above stated, in which they all, at their own request, returned to Ponta da Lenha.

These facts have been stated to me by Commander Hewett, and can all, I presume, be substantiated by the evidence of every officer and man on board Her Majesty's steamer *Viper*. Your Excellency, on comparing them with the particulars detailed in Senhor Pamplona's sworn protest, will see how unfounded and calumnious are the representations brought forward against Her Majesty's officer by that individual.

Your Excellency expresses an apprehension that the measures of repression by which Her Majesty's cruizers are endeavouring to put a stop to the Slave Trade in the north will interfere with licit speculations in that quarter, and adds that the commercial body of Loanda is loud in its denunciations of those measures.

I am aware that complaints of this nature have lately been made at this place, and many rumours respecting the proceedings of the British cruizers have reached my ears; but I am not disposed to lend implicit confidence to every fabricated tale which comes to my knowledge tending to criminate officers of the British navy engaged in this arduous service, and until each case has been fairly and openly investigated, I do not consider it right to offer any opinion upon its merits.

There are various observations contained in your Excellency's letter to which I cannot pretend to reply until I shall have received specific instructions upon the subject; but I take leave to assure your Excellency that Her Majesty's Government duly appreciates the rights and reciprocal duties of independent and friendly nations, and that, whilst resolved to exercise any powers in regard to the suppression of the traffic in slaves which Great Britain may have acquired by Treaties with other States, it by no means arrogates an authority to exert any action in matters of this nature where such a right has not been conceded to her.

In conclusion, it only remains for me to assure your Excellency that a copy of your letter of the 4th instant, and of this reply, shall be transmitted to Her Majesty's Government without delay.

I have, &c.

The Governor-General of the Province of Angola.

EDMUND GABRIEL.

(*Inclosure* 3.)—*The Governor-General of the Province of Angola to Her Majesty's Commissioner.*

(Translation.) *Palace of Government, Loanda, November* 10, 1859.

EXCELLENT SIR,

I HAVE the honour to acknowledge the receipt of your despatch of the 7th instant, in answer to mine of the 4th, relative to the rigorous proceedings taken by the British cruizers against the coasting-vessels to the North.

In the said despatch I specified some cases in which an unquestionable excess appears to me to have been committed by the British cruizers respecting the supervision which they ought legitimately to exercise over the said vessels with a view to the repression of the Slave Trade, and, above all, in the course which has been pursued of destroying the said vessels without any form of trial when it is believed that there are grounds for supposing them to be implicated in that traffic; the said cruizers thus constituting themselves, against all laws of right—even of natural right—accusers, judges and parties interested in the effects of condemnation, in consequence of the benefit accruing to them from the appropriation of the vessels and their cargoes.

You have been pleased to give me the just hope that such excesses shall be prohibited, by your intervention with the commander of this division of the squadron, and likewise to assure me that you will promptly bring my above-mentioned despatch to the knowledge of Her Britannic Majesty's Government, as I stated to you that I would communicate these occurrences to the Government of His Most Faithful Majesty.

Without desisting from the right upon which I have already protested for indemnification for any breach of the dispositions of the Treaty of the 3rd July, 1842, and for the reparation of any private loss which may have resulted from the proceedings of the British cruizers, it is extremely gratifying for me to have to communicate your reply to his Majesty's Government, and I shall consider myself yet happier if, in future, I may be able to say that the repression of the traffic in slaves is only carried out in conformity with those dispositions, and those eternal principles of universal justice which on no secondary consideration ought to be thrown aside.

God preserve, &c.

JOSE RODRIGUES COELHO DO AMARAL.

Her Majesty's Commissioner.

(*Inclosure* 4.)—*Her Majesty's Commissioner to the Governor-General of the Province of Angola.*

EXCELLENT SIR, *Loanda, November* 14, 1859.

I AM honoured by the receipt of your Excellency's despatch of

the 19th instant, again referring to the measures recently adopted by Her Majesty's cruizers in suppressing the Slave Trade, which is now carried on in launches and coasting-craft to the North.

I should have limited myself to a mere acknowledgment of that despatch, but, in reply to your Excellency's assertion that British officers in destroying those launches constitute themselves judges and accusers, as well as being the parties interested, it is my duty to point out that the destruction of launches and vessels employed in the Slave Trade does not, as your Excellency appears to suppose, release the captor from the necessity of bringing each case before a Court of Adjudication.

These launches, although provided with regular papers from this Government for the sole purpose of enabling them to enter the ports of the province, when met by Her Majesty's cruizers *in flagrante delicto*, are very careful not to produce those papers, fearing the justice they would receive from the Mixed Commission at this place; they therefore, as happened with two of them seized by Her Majesty's steamer *Vesuvius* with slaves on board, some time since, destroy these papers, and do not claim any nationality. They are, consequently, captured under an Act of the British Legislature, and not brought for judgment before the Mixed Commission at this place, under the Treaty of the 3rd July, 1842. The slaves, if any, are removed on board the capturing ship, and the launches, being incapable of making the voyage to St. Helena, are destroyed on the spot. This mode of dealing with them, however, I beg leave to assure your Excellency, does not in any degree supersede or prevent a regular trial, but, on the contrary, in each case it is required that documents and proofs be sent before the Court of Vice-Admiralty, upon which the Judge pronounces his decision as to whether the capture was legal or not.



to proceed promptly against that individual, on the above charge, in the proper tribunal, and I beg to assure you that I shall be happy to use all my efforts, and to render my best assistance, in furthering the ends of public justice in this matter. I have, &c.

The Governor-General of the Province of Angola. EDMUND GABRIEL.

(*Inclosure* 5.)—*Commander Hewett to Her Majesty's Commissioner.*

SIR, Viper, *Loanda, October* 29, 1859.

I HAVE the honour to inclose copies of letters that have passed between his Excellency the Governor-General of Angola and myself relating to the detention and bringing to this port, on my part, of a boat showing the Portuguese flag, with a passport dated April, 1858.

By instructions given to commanders of Her Majesty's cruizers from Sir F. W. Grey, K.C.B., relative to the coasting-boats or vessels wearing the flag or claiming the Portuguese protection, it distinctly states that these passports are renewed annually, and that the meeting of these boats with papers overrun are looked on by commanders of Her Majesty's cruizers as suspicious. In accordance with the said orders, I brought the boat in question here, knowing well the assistance these launches render to the slave-dealers, not only in the carrying of slave-fittings, but also the actual conveyance of slaves to the vessels.

His Excellency has entirely misunderstood my object, although I tried my best to explain it; but as he says he is about to enter into a correspondence with you on the subject, I have thought it my duty to give you a copy of all letters that have passed between his Excellency and myself on the subject.

With regard to the protest sent me from his Excellency, I keep it, as it proves that Mr. Pamplona has taken his oath to things that have not happened. The boat had not a particle of cargo in her at the time of detention. The crew, consisting of Cabenda men and two Portuguese, who had come down the river from Ponta da Lenha for the purpose of making inquiries about some other launch, returned in a boat that left Her Majesty's ship under my command on the forenoon of the 13th October, 1859.

The Governor-General, knowing the well-founded suspicions of Mr. Pamplona's character and occupations, has not, as I feel sure you will think, given me the assistance on his part to the object I had in view by bringing the boat here, viz., that of his, in some way, by the laws and the cruizers of His Most Faithful Majesty at his disposal, putting a stop to the many abuses carried on by the coasting-boats, and also causing a strict examination of their papers.

I leave this port to-morrow for my cruizing-ground.

His Excellency has thought fit to make use of expressions derogatory to the character of British naval officers; he has also refused to correspond further with me on that subject, and has not in any way withdrawn his assertion: I therefore leave the matter in your hands, knowing full well that no such expression would have been made by his Excellency to you without his giving more satisfaction than he has thought proper to accord to me.

I have, &c.

Her Majesty's Commissioner. W. N. W. HEWETT.

(*Inclosure* 6.)—*Commander Hewett to the Governor-General of the Province of Angola.*

SIR, Viper, *Loanda October* 24, 1859.

I HAVE the honour to acquaint your Excellency that, on the evening of the 12th instant, whilst lying at anchor in the River Congo, I detained a boat wearing the Portuguese flag, and furnished with papers from the Government of this province dated April, 1858.

The merchants in the Congo, as well as the patrãos of these boats, have frequently been warned that it is necessary to renew their papers annually, but this necessary formality has been entirely neglected in this and many other cases. I have, therefore, been induced to bring this boat to Loanda, and I beg to place her, as well as her papers, at your Excellency's disposal.

I feel it my duty to add, at the same time, that the numerous launches and boats employed on the coast to the north of this province foster and facilitate the operations of the slave-dealers to such an extent that it has become necessary for Her Majesty's cruizers to exercise the strictest surveillance over them, and I may be permitted to mention that a vessel was a short time since captured near Ambrizette in the act of shipping a cargo of slaves, who were actually alongside of her in these trading launches, when Her Majesty's cruizer hove in sight.

I have, &c.

The Governor-General of the Province of Angola. W. N. W. HEWETT.

(*Inclosure* 7.)—*The Governor-General of the Province of Angola to Commander Hewett.*

(Translation.) *Palace of Government, Loanda, October* 25, 1859.

EXCELLENT SIR,

I HAVE just received your letter of this day's date, informing me that you have brought into this port a small vessel with the Portuguese flag, and furnished with papers from this Government, which

you detained in the Zaire, in consequence of the term of her passport, which is dated in April, 1858, having expired.

You observe that the repeated warnings given to the owners and patrãos of the coasting-vessels of the Zaire to renew these papers annually have been fruitless, and that you, therefore, resolved to detain this one, and to place her, with her papers, at my disposal. You add further that these vessels assist the traffic in slaves, and you cite the fact of some of them having been found ready to carry negroes to a ship which was lately captured by a British cruizer near Ambrizette.

In reply I have to state:

1. That I refuse in the most formal manner to recognize the right on the part of the ships of war of Her Britannic Majesty to supervise the execution of the Regulations for Portuguese Navigation.

The mission of the British cruizers is the repression of the slave traffic; the exercise of it is regulated by the Treaty of the 3rd July, 1842, where there is not to be found, as indeed there could not be, any stipulation authorizing the detention of a ship for irregularities in her papers.

2. That neither does such irregularity exist from the want of the renewal of the passport, inasmuch as that document given by the Government of this province is permanent, like the royal passports of all countries, since the determination of the 22nd April, 1856, which was published in the official "Boletim," No. 522, of the 22nd of the same month and year.

3. Without doubting that some of the coasting-vessels to the north are involved in Slave Trade operations, and acknowledging that this deplorable fact must necessitate the most active vigilance, both on the part of the British and Portuguese cruizers and of the authorities of the province, it behoves me to observe that I entertain the conviction that all faithfully discharge this duty so far as it is possible.

Being about to enter upon this important subject to the extent which it merits and demands with Her Britannic Majesty's Commissioner at Loanda, inasmuch as I am informed that the coasting-trade to the north has lately been the victim of the greatest violences on the part of the English cruizers, it only remains for me to say to you:

1. That I accept the vessel to which you refer, with her papers, reserving the right of protesting against you for all losses which may arise from her arbitrary detention, according to the provisions of Articles IV and VIII of the Treaty of 3rd July, 1842.

2. That I will send to receive the said vessel by the captain of the port at any hour which you may be pleased to indicate, under

I BEG to acknowledge the receipt c
the 25th, and to acquaint you that the
to in my letter of the 24th, will be h
may send, and at any time suitable to
I shall be happy, at the same time to
to the description of this boat, and all

In justice to the service to which I
I cannot allow a statement so uncall
Excellency's letter, to the effect that
by British cruizers on this coast, to
asserting that no such violences have c

Moreover, it behoves me to remarl
have misapprehended the idea I had in
Loanda for the purpose of delivering
my only object being that of cordial co
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suppression of the traffic in slaves, ar
interfering with the Portuguese na
appears to suppose.

I would further remark that boats
retained at the factories along the
recently came to my knowledge in the
which arrived on this coast, and sub
can positively assert that boats from
hauled up at Ponta da Lenha, at fac
flag, without the necessary papers to

has become actually necessary for Her Majesty's cruizers to double their efforts to put an end to these abuses.

I have, &c.

The Governor-General of the Province of Angola. W. N. W. HEWETT.

(*Inclosure* 9.)—*The Governor-General of the Province of Angola to Commander Hewett.*

(Translation.) *Palace of the Government, Loanda, October* 27, 1859.

EXCELLENT SIR,

I HAVE the honour to acknowledge the receipt of your official letter of yesterday's date, in reply to mine of the 25th.

The Captain of the Port will present himself to you to receive the boat which was detained by you in the Zaire and brought here. Of the minute of delivery two copies will be made, one of which will be left with you.

I do not enter into any further discussion respecting the proceedings which have taken place to the north, on the part of Her Britannic Majesty's cruizers, against the coasting trade; for the reason, as I have already stated to you, that it is my intention to enter upon the subject with Her Britannic Majesty's Commissioner.

I think that I will be able to prove that grave violences really have occurred, which are neither justifiable in the interests of the repression of the Slave Trade, nor founded on any right.

I now send you, inclosed, the protest of the owner of the said boat, for the losses caused by her illegal and arbitrary detention, begging you to be pleased to acknowledge its receipt.

God preserve, &c.

JOSE RODRIGUES COELHO DO AMARAL.

Commander Hewett.

(*Inclosure* 10.)—*Minute of Protest.*

(*Inclosure* 11.)—*Minute of Delivery.*

(*Inclosure* 12.)—*Commander Hewett to the Governor-General of the Province of Angola.*

SIR, Viper, *Loanda, October* 28, 1859.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of yesterday's date, inclosing a protest from one Pamplona, a merchant of this place. I have, &c.

The Governor-General of the Province of Angola. W. N. W. HEWETT.

(*Inclosure* 13.)—*Her Majesty's Comm'r. to Rear-Admiral Sir F. Grey.*

SIR, *Loanda, November* 10, 1859.

WITH this I beg leave to hand you a translation of a letter which has been addressed to me by the Governor-General of this province, and its inclosures, respecting the proceedings taken by Her Majesty's cruizers against the launches and small craft employed in the coasting trade to the north, and furnished with papers from the Government of this province.

You will perceive that his Excellency's despatch refers more particularly to two cases:—first, that of the launch destroyed by Her Majesty's steamer *Pluto*, at Cabenda, which formed the subject of my despatch to Commodore Wise, of the 26th ultimo; and secondly, that of a boat which was detained by Commander Hewett, of Her Majesty's steamer *Viper*, in the River Congo, on the 12th ultimo, and brought into this port to be placed at the Governor-General's disposal, on the ground that her passport had not been renewed within a year of its date, as pointed out in the instructions under which Her Majesty's officers on this part of the coast are acting.

My reply to Senhor Amaral, a copy of which I likewise beg to subjoin, will show that on referring to the regulations in regard to the issue of passports to Portuguese coasting vessels in this province, I found that so far back as 1854 the practice, which had up to that period prevailed of renewing those documents annually, was discontinued under the orders of His Majesty the King Regent of Portugal.

I lose no time, therefore, in laying before you a translation of those orders, and I trust that, in view thereof, the step which I have taken of suggesting to the senior officer of this division of the squadron the expediency of suspending the execution of so much of your instructions as relates to the necessity of these passports being renewed annually may meet with your concurrence.

The Portaria of this Colonial Government, dated 22nd April, 1856, to which the Governor-General refers in his letter to me of the 4th instant, merely regulates the amount of the various fees to be taken by the department of the Secretary to Government.

A table of those fees is annexed to that Portaria, and, under the head of "Passports of Coasting Vessels," reference is made to the Portaria of the Minister of Marine and Colonies of the 29th of May, 1854, to show that those documents are permanent; I consider it more advisable, therefore, to transmit a copy of the original order of the Government of Lisbon on this subject than a copy of the Portaria referred to by his Excellency.

I have, &c.

Rear-Admiral Sir F. Grey. EDMUND GABRIEL.

(*Inclosure* 14.)—*Portaria.*

(Translation.) *Palace, May* 29, 1854.

His Majesty the King Regent, in the name of the King, orders, by the Secretary of State of Marine and Ultramar, that there be sent to the Governor-General of the Province of Angola, the inclosed copy of a Portaria addressed under this date to the Governor-General of the Province of Cape Verde, declaring that the passports of the coasting-vessels referred to in Section 1 of Article X of the Law of the 14th July, 1848, ought to be considered to all intents as royal passports, which the said vessels are excused from obtaining. And the said august Lord orders that the aforesaid Governor-General will so understand it, and cause it to be executed in the province under his charge.

VISCONDE D'ATHOGUIA.

(*Inclosure* 15.)—*Portaria.*

(Translation.) *Palace, May* 29, 1854.

There having been presented to His Majesty the King Regent the despatch of the Governor-General of the Province of Cape Verde, dated 2nd December, 1852, requesting that measures may be taken with regard to the omission which appears in the Law of the 14th July, 1848, as to the time for which the passports of colonial coasting-vessels ought to be in force, and the expenses of emoluments and seals of the said passports, and communicating also the manner in which he had resolved to supply provisionally this omission; and the said august Lord bearing in mind that those passports alone can be considered provisional which, in conformity with the said law, must be replaced by royal passports; and that, inasmuch as the said coasting-vessels are exempted from obtaining a royal passport, the duration of which is permanent, the passport which is furnished them by the respective Governors ought to be equally permanent; were it otherwise, the absurdity would arise of these vessels being burdened with much heavier expenses than they would be if they did not enjoy the said exemption, and that finally the passports of the said vessels, having the same permanency as royal passports, the expenses of preparing and sealing them ought to be regulated by the same scale; is pleased, in the name of the King, and in conformity with the opinion of the Colonial Board given on the 12th instant, to approve of the measure adopted provisionally by the said Governor-General, and to state to him that the passports of coasting-vessels, referred to in Section 1 of Article X of the Law of July 14, 1848, granted by the Governors of colonies according to the form sent to them with a Portaria of this department on the 17th September, 1852, shall be considered

to all intents as royal passports, from obtaining which the said vessels are exempted.

VISCONDE D'ATHOGUIA.

(*Inclosure* 16.)—*Her Majesty's Commissioner to Captain Courtenay.*

SIR, *Loanda, November* 10, 1859.

HEREWITH I beg to inclose to you, under flying seal, a despatch which I have this day addressed to Rear-Admiral the Honourable Sir Frederick William Grey, inclosing copies of a correspondence which has passed between the Governor-General of this Province and myself, relative to the proceedings of some of Her Majesty's cruizers on this division.

I take leave to request your best attention to the terms of the Portaria of His Most Faithful Majesty, dated 29th May, 1854, a copy of which is inclosed in my letter to Sir Frederick Grey, and, under all the circumstances of the case, I feel it my duty to lose no time in submitting to you the expediency of suspending the execution of so much of the Admiral's instructions regarding Portuguese coasting vessels as relates to the necessity of their passports being renewed annually, until this matter has been definitively arranged.

I have, &c.

Captain Courtenay. EDMUND GABRIEL.

No. 87.—*Lord J. Russell to Her Majesty's Commissioner.*

SIR, *Foreign Office, February* 4, 1860.

I HAVE received your despatch of the 18th of November last, inclosing copies of a correspondence which has passed between the Governor-General of Angola and you, relative to the proceedings of Her Majesty's cruizers towards the small craft, native as well as Portuguese, engaged in the coasting trade in the neighbourhood of the Portuguese possessions on the Western Coast of Africa; and I have, in reply, to acquaint you that I approve your proceedings as reported in your above-mentioned despatch.

I am, &c.

Her Majesty's Commissioner. J. RUSSELL.

REPORTS FROM NAVAL OFFICERS.

WEST COAST OF AFRICA STATION.

No. 115.—*Rear-Admiral Sir F. Grey to the Secretary to the Admiralty.*

SIR, Boscawen, *off the Congo, June* 8, 1859.

THE Lords Commissioners of the Admiralty will have received from Commodore Wise a copy of a letter addressed by him on the

9th of May, 1859, to the Governor-General of Fernando Po and its dependencies, requesting his Excellency to give notice that all vessels belonging to Fernando Po residents, and flying the English flag, must be provided with proper registers, and that the conveyance of domestic slaves in such vessels is contrary to the laws of England.

I have now the honour to transmit a copy of a memorandum which I have issued for the guidance of the officers in command of Her Majesty's cruizers in the Bights on this subject.

I have, &c.

The Secretary to the Admiralty. FRED. WM. GREY.

(*Inclosure.*)—*Orders addressed to the Officers in Command of Cruizers in the Bights Division.*

Memo. Boscawen, *off the Congo, June* 7, 1859.

THE officers in command of Her Majesty's cruizers in the Bights are to examine carefully the papers of any small vessels they may fall in with flying the English flag, trading between Fernando Po and the different points on the coast, to ascertain that, in the absence of the proper certificate of registry in England, they are provided with a temporary register from Her Britannic Majesty's Consul for the Bights of Biafra, which temporary register is, however, only to hold good for 6 months from the date thereof; at the expiration of which period the proper certificate of registry in England is to be considered indispensable in support of their claim to the protection of the English flag.

And as the act of conveying domestic slaves for foreigners in a British vessel comes under the Acts of Parliament 5 Geo. IV., cap. 113, and 6 and 7 Vict., cap. 98, the commanding officers are in all cases of irregularity in breach of the regulations of the said Acts of Parliament, to adopt immediate measures for having the culprits sent to England for trial, if the crime is committed on land out of the Queen's dominions, and if at sea, dispatch them for trial to the colony of Sierra Leone.

FRED. WM. GREY, *Rear-Admiral and Commander-in-chief.*

No. 136.—*Commodore Wise to the Secretary to the Admiralty.*

Vesuvius, *at sea, lat.* 0° 4′ *S., long.* 7° 53′ 40″ *E.*,

SIR, *September* 23, 1859.

I HAVE the honour to inclose, for the information of the Lords Commissioners of the Admiralty, a copy of my letter to the Commander-in-chief, bringing to his notice the conduct of Commander B. J. Totten, of The United States' corvette *Vincennes*, who, in consequence of a requisition from me (also inclosed) dispatched his

boats to visit the slaver *Memphis*, under American colours, yet when that vessel was sighted would not make an examination of her, which must have resulted in the capture of that noted slaver; also calling the Commander-in-chief's attention to a second instance of Commander Totten's disinclination to check the prostitution of the American flag, as detailed in paragraphs 13 to 16 of my letter to Rear-Admiral Grey, a copy of which was forwarded to their Lordships in my letter of the 10th September, 1859.

I have, &c.

The Secretary to the Admiralty. CHAS. WISE.

(*Inclosure* 1.)—*Commodore Wise to Rear-Admiral Sir F. Grey.*

(Extract.) Vesuvius, *Mayumba, September* 20, 1859.

I HAVE the honour to inclose, for your information, the copy of a letter I addressed to Commander B. J. Totten, of The United States' corvette *Vincennes*, at St. Paul de Loanda, acquainting him that the noted slavers *Memphis, Star of the East*, and *Ottawa*, &c., were openly cruizing, under American colours, between Ambriz and the Congo, waiting until their slaves were collected, and that very many slavers, under American colours, were on the coast, while some 14 had escaped since the 1st January, owing to the protection afforded by the American flag.

Although Commander Totten complied with my request, so far as dispatching his boats, which were towed to Fonda Bay by Her Majesty's ship *Triton*, yet all this apparent desire to co-operate with Her Majesty's cruizers was rendered a mere mockery from the circumstances detailed in Lieutenant Burton's letter, where he reports communicating with the *Vincennes*, on the 26th August, pointing out to her Commander the slaver *Memphis* in the offing, and offering to get up steam and tow his boats to her, which offer was declined, Commander Totten stating he could overtake the *Memphis* in his own ship; he did not, however, attempt to do so, and as might be expected, through Commander Totten's apathy, the *Memphis* escaped a visit which must have resulted in her capture.

Paragraphs 13 to 16 of my letter will bring to your notice a still more flagrant instance of Commander Totten's indifference in executing the duty which is supposed to call American men-of-war to the coast, which resulted in the escape of the noted slaver *Isla de Cuba*, owned by the Portuguese Reis, her real master being the Portuguese Correa, and certainly sailing under a flag procured by fraud and perjury.

Rear-Admiral Sir F. Grey. CHAS. WISE.

(*Inclosure* 2.)—*Commodore Wise to Commander Totten, U.S.N.*

SIR, Vesuvius, *off Snake's Head, August* 15, 1859.

I HAVE the honour to acquaint you that, on the 14th instant, I again sighted the slaver *Memphis*, under American colours. On observing the *Vesuvius*, she weighed from Bahia Fonda, where the slaves are supposed to be collected, and stood to sea; at the same time a barque stood into Bahia Fonda, anchoring close in-shore. I anchored after dark, and the following morning observed the barque running down towards the *Vesuvius:* when I dispatched a boat to ascertain her nationality, she proved to be the noted slaver *Star of the East*, of New York, whose master stated he was cruizing on the coast.

Under these circumstances of the much increased prostitution of the flag of The United States to cover slave-trading transactions, and the fact of your now having it in your power to capture the *Memphis* and *Star of the East*, together with several other vessels under American colours, daily expected to ship on this part of the coast, you will, I trust, pardon my requesting that, if possible, you will make it convenient to visit this locality at an early date in the *Vincennes*, or, in the event of a refit of that vessel precluding you from doing so, perhaps you would deem it advisable to dispatch boats to the neighbourhood of Bahia Fonda. Lieutenant Burton, of Her Majesty's ship *Triton*, who delivers you this letter, will assure you of the pleasure he will have in affording every possible assistance to your boats.

In conclusion, I beg to inform you that some further vessels have already escaped, with slaves, this year, under the cover of the American flag, while there are 8 vessels daily expected to ship on the South Coast. I must again assure you how anxiously I anticipate a joint system of cruizing being soon established by The United States' squadron to suppress the Slave Trade under the American flag, which is now carried on to an unprecedented extent.

I have, &c.

Commander Totten. CHAS. WISE.

(*Inclosure* 3.)—*Lieutenant Burton to Commodore Wise.*

(Extract.) Triton, *off Mayumba, September* 18, 1859.

THE letter I received from you on the 16th of August last, addressed to Commander Totten, of The United States' corvette *Vincennes*, I delivered to that officer at St. Paul de Loanda on the 19th of the same month, and have the honour to inform you that the following conversation took place between Commander Totten and myself on that occasion. I acquainted him that there were four slavers under American colours between Ambriz and the River

Congo, stating how requisite it was that an American cruizer should visit that part of the coast without delay. He replied that he hoped soon to be ready for sea, but did not give any fixed period. I again urged him to adopt prompt measures regarding these slavers, and suggested his sending boats to overhaul them; which suggestion, he said, would not have occurred to him had it not been made. I informed him I should be ready for sea on the 22nd, and offered to co-operate with him in any way whatever for the suppression of the Slave Trade; also to tow any of his boats to any cruizing-ground he might think fit to send them.

He remarked, that he thought that Commodore Wise was very energetic in his measures for the suppression of the Slave Trade; to which I replied that I hoped that all employed in that duty were actuated by the same motives. I asked him if I was to expect any of his boats on board the *Triton* on the 22nd; when, after hesitating some time, he said he would send two boats, at the same time adding that he expected to be ready for sea as soon as the *Triton* was. Commander Totten returned my visit on the 20th, and, in the course of conversation, asked me if the *Triton* would be ready for sea as soon as the 22nd. I replied that the vessel would be ready for sea at 5 P.M. on that day. Accordingly, at that time two boats, manned and armed came on board, which I conveyed to Fonda Bay, from which bay they proceeded, on the 24th, along the coast as far as the Congo.

On the 26th I again communicated with the *Vincennes* at Fonda Bay, and pointed out to her Commander the slave-ship *Memphis*, bearing north-west. The wind being so very light, I offered to get up steam and tow his boats to examine her. He declined this offer, remarking, in a very disinterested manner, that he thought he could overtake her in his own ship. I then proceeded to leave his ship,

No. 143.—*Commodore Wise to the Secretary to the Admiralty.*

SIR, Vesuvius, *St. Helena, October* 22, 1859.

I HAVE the honour to inclose, for the information of the Lords Commissioners of the Admiralty, a copy of my letter to the Commander-in-chief, reporting having issued instructions for the ships of Her Majesty's squadron cordially co-operating with the cruizers of The United States by receiving their boats to examine American slavers, and also offering to tow the sailing ships of the squadron to the neighbourhood where American slavers are known to be cruizing. I have, &c.

The Secretary to the Admiralty. CHAS. WISE.

(*Inclosure* 1.)—*Commodore Wise to Rear-Admiral Sir F. Grey.*

(Extract.) Vesuvius, *St. Helena, October* 22, 1859.

I HAVE the honour to inclose, for your information, the copy of a letter I addressed to Commander Colhoun, of The United States' corvette of war *Portsmouth*, expressing my satisfaction at receiving the intelligence of his having captured the American slaver *Emily*, and acquainting him that Her Majesty's steam-ships on this coast were at his disposal to tow his ships or boats, when he desired, to the neighbourhood where American slavers were known to be cruizing; also furnishing him with the description of 38 slavers under the American flag, either now on the coast or shortly expected.

I am most anxious to see a joint system of cruizing established between the two squadrons, and an exchange of boats. Once such a custom became known to the slave-dealers, the result would be that no vessel but those having unquestionably regular papers, and no slave-deck laid, would dare to hoist the American flag to a British man-of-war, knowing that her right to do so would be verified by a United States' naval officer; while vessels like the *Lillie Mills*, and others with irregular American papers, would at once be captured without nationality, in preference to detention by an American cruizer.

Rear-Admiral Sir F. Grey. CHAS. WISE.

(*Inclosure* 2.)—*Commodore Wise to Commander Colhoun, U.S.N.*

SIR, Vesuvius, *off Cape St. Catharina, October* 4, 1859.

I HAVE received from Lieutenant Burton, commanding Her Majesty's steam-vessel *Triton*, the gratifying intelligence of the capture by The United States' ship-of-war *Portsmouth*, under your command, of the noted slaver *Emily*, sailing under American colours.

It affords me great satisfaction also to hear from Lieutenant Burton of your intention to check the prostitution of the American

flag, and I have to assure you that Her Majesty's officers will have great pleasure in co-operating with you in any single way you may think fit to suggest; the steamers especially are at your disposal to tow your vessels or boats to any portion of the coast where American slavers are known to be cruizing, and I have directed that you are kept informed of the proceedings of those vessels.

I beg to inclose for your information, the particulars of the slavers under American colours which are either now on the coast or may be daily expected, and I have to request that you will be good enough to communicate these particulars to your Commander-in-chief and the American cruizers generally.

I have, &c.

Commander Colhoun. CHAS. WISE.

SOUTH-EAST COAST OF AMERICA STATION.

No. 165.—*Rear-Admiral Sir S. Lushington to the Secy. to the Admiralty.*

SIR, Leopard, *off Rio de Janeiro, September* 20, 1859.

I HAVE the honour to inclose herewith, for the information of the Lords Commissioners of the Admiralty, the copy of a letter from the Honourable William Stuart, Her Majesty's Chargé d'Affaires at Rio de Janeiro, respecting the French ship *Splendide*, which arrived at that port about a fortnight since, and is reported to be employed, under a contract with the French Government, for the reception of 800 Africans, whom she purposes obtaining on the Congo coast, and conveying to one of the French West Indian Colonies.

It is also reported that the *Splendide* has on board two Government Commissioners and two medical officers of the French navy, and that she is to meet on the West Coast of Africa two American vessels which have been engaged under the same contract and for the same purpose.

I have communicated privately with Rear-Admiral de Chabannes, the Commander-in-chief of the French naval forces on this station, who informed me that the particulars were correct and perfectly legal, as it was the intention of the Government to obtain free African labour, and not slaves.

I have, &c.

The Secretary to the Admiralty. STEPHEN LUSHINGTON.

(*Inclosure.*)—*Mr. Stuart to Rear-Admiral Sir S. Lushington.*

SIR, *Rio de Janeiro, September* 8, 1859.

I THINK it right to acquaint you that a French vessel named the *Splendide*, now in the harbour, has been reported to me as fitting

out for the reception of 800 Africans, whom she purposes to take on board off the Congo coast.

It appears that the *Splendide* lately arrived here from the Mediterranean with a cargo of Arab horses, after landing at Ceará some camels with which she had also been laden, and that she professes to be employed under a contract with the French Government for the purpose of conveying African labourers to some of the French West Indian colonies. She is said to have slave-decks, and to be receiving a large supply of farinha and water.

It is further stated that she has on board two medical officers of the French navy as passengers, and she is likely to sail hence in 4 or 5 days.

I have, &c.

Rear-Admiral Sir S. Lushington. WILLIAM STUART.

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Consular.

No. 2.—Consul Campbell to the Earl of Malmesbury.—(Rec. April 8.)

My Lord, *Lagos, March 4, 1859.*

On the failure of Commodore Protet's mission to the King of Dahomey to obtain from him the concession of the exclusive privilege for the French to purchase slaves at Whydah, the screw-steamers *Stella* and *Dahomey*, belonging to M. Régis, which had been waiting in Whydah roads the result of the Commodore's mission, set sail, the former, it was stated, to the Congo, the latter to Palma.

I learn, on good authority, that the agent of M. Régis, at Palma, with the delegate of the Imperial Government, proceeded to Kosoko at Epé, and strongly urged him to supply a cargo of slaves for the *Dahomey* that Kosoko wished to comply with the request of the Frenchmen, but was reminded by Tappa of the Treaty he had concluded with the English Government, in which he had strictly bound himself to make no more Slave Trade; the Frenchmen, on the other hand, assured Kosoko that furnishing M. Régis with slaves is not Slave Trade, because the slaves, after working for a limited number of years, are set at liberty, and will be sent back to Africa if they wish it. Kosoko, it appears was about to yield to the representations of the Frenchmen, when Tappa and the other

Cabooceers pointed out to Kosoko the danger of his selling any of his slaves or people who, having for a few years past enjoyed a great amount of personal liberty, and having had, many of them, the privilege of trading for themselves, would immediately desert when they perceived he was selling them; that not only would Kosoko's people run away, but those of the Cabooceers also; that all of them were aware of Kosoko's Treaty with the English, and would, if he began to sell them for shipment, probably go in a body to Lagos, and throw themselves on the protection of the English Consul. Tappa's fears and representations prevailed, and Kosoko declined to furnish a cargo for the *Dahomey;* whither this vessel went afterwards I have not learnt, as I left Lagos about that time for England.

I have, &c.

The Earl of Malmesbury. B. CAMPBELL.

AFRICA (Bight of Biafra).

Consular.

No. 26.—*Consul Hutchinson to Lord J. Russell.*—(*Rec. Jan.* 11, 1860.)

My Lord, *Fernando Po, November* 28, 1859.

I have the honour to transmit herewith copy of a communication which I received a few days ago from Gaboon, and the original whereof I am forwarding, as requested, to the Governor of Cape Coast Castle.

It is needless for me to point out to Her Majesty's Government the evil results that must inevitably flow from the new phase of French voluntary emigration, if reparation be not made in the present case, and any like occurrence in future be not obviated.

I have, &c.

Lord J. Russell. THOS. J. HUTCHINSON.

(*Inclosure.*)—*Letter addressed to Consul Hutchinson by some Natives of the Gold Coast.*

Sir, *Gaboon, October* 20, 1859.

We beg leave to acquaint honour a few lines concerning our present state: that we are people which belongs to Cape Coast, and we carried our goods to some place called Assime in order to sell, and when we reached there in the midnight the Frenchmen came and cutch we and shipped we on their man-of-war and carried we to the Goree, but nobody knows not our going, and when we reached there they never let we close the men of letters, and now they brought we to the Gaboon; we all amounted 75; 20 died out of 75; but we hope you to try the best as you can and write the

Governor of Cape Coast Castle about our sorrowful case, so that we can get leave to go to our mother-land and you shall be highly oblige. We remain, &c.

TAWEAH.
ARBACCAH.
BORDER COFFEE.
COFFEE AMMOO.
ASHON.
ARWELL, &c.

T. J. Hutchinson, Esq.

BRAZIL.

No. 38.—Lord J. Russell to Mr. Stuart.

SIR, *Foreign Office, December* 8, 1859.

I HAVE received your despatches of the 31st of October last and 1st ultimo, reporting the proceedings of the Brazilian Government in the case of a launch which arrived on the coast of Brazil under circumstances that induced suspicion that an attempt had been, or was about to be made, to introduce a cargo of African slaves into that country.

I have, in reply, to instruct you to thank the Brazilian Minister for his courtesy in communicating to you the correspondence of the Brazilian authorities in this case, and you will at the same time express the satisfaction of Her Majesty's Government at the determination evinced by the Imperial Government to frustrate any attempts that may be made to reopen the African Slave Trade, and at the energy displayed in the affair of the launch.

I am, &c.

W. Stuart, Esq. J. RUSSELL.

*No. 39.—Lord J. Russell to Mr. Christie.**

SIR, *Foreign Office, February* 11, 1860.

IT is my painful duty to call your attention to the increased and increasing prosperity of the Slave Trade carried on between the west and east coast of Africa and Cuba.

It appears that the number of negroes introduced into Cuba last year was, according to actual information, 22,000, and according to estimate, 30,000. It appears, further, that United States' capital has been more and more employed in this traffic.

It is ascertained, by repeated instances, that the practice is for vessels to sail under the American flag. If the flag is rightly assumed, and the papers correct, no British cruizer can touch them.

* Similar despatches were addressed to Her Majesty's Ministers at Madrid, Washington, Paris, and Lisbon.

If no slaves are on board, even though the equipment, the fittings, the water-casks, and other circumstances prove that the ship is on a Slave Trade venture, no American cruizer can touch them. The master, indeed, often taunts the captain of a British cruizer with his impunity from capture.

From the east coast of Africa a most profitable Slave Trade is carried on almost without interruption. It is such that a cargo of 1,000 slaves was lately embarked on board a single vessel, but the captain, finding he had not provisions and water for so many, deliberately threw overboard 400 of those unhappy beings, when he had got out to sea.

The Governments of France, The United States, Portugal, and Brazil, have co-operated with the Government of Great Britain, with a view to put an end to this traffic.

The Government of Spain alone have persisted in screening and favouring this trade. The corruption of Spanish official persons in the Island of Cuba is notorious; the price of connivance is publicly known, and many of these persons have returned to Spain, enriched by the gold they have amassed as the price of African blood.

The engagements made by Spain with the British Government form part of the public law of Europe.

In 1817 Spain concluded a Treaty with this country for the abolition of the traffic in slaves north of the Equator, and, in accordance with the stipulations of that Treaty, the British Government paid to that of Spain the sum of 400,000*l.*, to compensate Spanish subjects for losses which they might suffer as a necessary consequence of the abolition of the said traffic.

In 1835, a further Treaty was concluded by the Spanish Government with the Government of this country, by which Spain declared the Slave Trade to be totally and finally abolished in all parts of the world.

Great Britain might enforce by her own means the observance of these Treaties; but humanity recoils at a war undertaken to impose humanity by force and bloodshed. Every expedient ought to be tried before an appeal to this last part is made.

Her Majesty's Government, therefore, propose that the Ambassadors and Ministers of the Courts of France, The United States, Spain, Portugal, and Brazil, should be instructed to meet in London in the month of May or June of the present year, to consider what measures can be taken to check the increase of the Slave Trade, and finally provide for its total abolition.

Her Majesty's Government would be prepared to lay before such a Conference their views on this important but distressing subject.

I have, &c.

W. D. Christie, Esq. J. RUSSELL.

FRANCE.

No. 59.—The Duke of Malakoff to the Earl of Malmesbury.

M. LE COMTE, *Londres, le 4 Mars*, 1859.

J'AI l'honneur de vous transmettre ci-joint une dépêche qui vient de m'être adressée par le Comte Walewski relativement à une visite à main armée dont le bâtiment Français le *Phénix*, a été l'objet, de la part d'officiers du navire Britannique *l'Alecto*. Cette pièce contenant l'exposé des faits, je me bornerai à recommander particulièrement cette affaire à l'attention de votre Excellence.

Veuillez, &c.

Le Comte de Malmesbury. ML. PELISSIER.

(*Inclosure* 1.)—*Count Walewski to the Duke of Malakoff.*

M. LE MARECHAL, *Paris, le* 1 *Mars*, 1859.

LE bâtiment Français le *Phénix*, employé au recrutement de travailleurs à la Côte Occidentale d'Afrique, par suite d'une autorisation du Gouvernement de l'Empereur, a été l'objet d'une visite à main armée de la part d'officiers du navire Anglais *l'Alecto*, dans les circonstances suivantes:

Les instructions données par M. le Commandant de Gorée et dépendances à M. Chevalier, capitaine du *Phénix*, et à M. Boute, chirurgien de la marine, qui avait été désigné pour surveiller les opérations en qualité d'agent du Gouvernement Français, leur recommandaient de ne pas recruter sur le territoire de la République de Libéria, ni sur les possessions Anglaises. Se conformant à ces prescriptions, le Capitaine Chevalier s'était rendu le 9 Novembre dernier au mouillage de Manna Rock; à 9 milles nord-ouest du Grand Cap de Monte, et à environ 7 milles dans l'ouest du village de Manna Rock; il était donc hors des eaux de la côte de Galinas, et de celles de la République de Libéria, dont la limite nord est, d'après les cartes Françaises et Anglaises, le Cap Monte. Afin de n'avoir aucun doute sur ce point, M. Boute interrogea les Chefs de la Côte; tous lui affirmèrent que le Cap Monte bornait effectivement au nord la République de Libéria, et qu'ils n'avaient aucun lieu de dépendance vis-à-vis de cet Etat. L'absence absolue de tout agent du Gouvernement Libérien sur cette partie du littoral confirmait encore toutes ces indications.

Le 13 Novembre, une embarcation de l'aviso à vapeur de la Marine Britannique *l'Alecto*, Capitaine James Hunt, qui était venu jeter l'ancre entre la terre et le *Phénix*, se dirigea vers le bâtiment Français qui avait arboré ses couleurs. Lorsque cette embarcation fut à portée, le Capitaine Chevalier demanda à l'officier Anglais qui la montait le motif de sa visite. Un noir, sans uniforme, qui se trouvait à côté de l'officier Anglais répondit qu'il était envoyé par

le Président de l'Etat de Libéria pour visiter le navire et constater le genre d'opérations auquel il se livrait sur cette partie de la côte dépendante de la République. Le Capitaine Chevalier s'adressa de nouveau à l'officier Anglais, et il y eut entre eux l'échange suivant de questions et de réponses: "Venez-vous me visiter? Oui.—Suis-je dans les eaux d'une possession Anglaise? Non.—Reconnaissez-vous mes couleurs? C'est possible; mais j'ai l'ordre de vous visiter. —L'abrogation des Traités de 1831, 1833, 1845, ne vous interdit-elle pas de visiter un navire Français, surtout en dehors de tout territoire reconnu? Cela ne me regarde pas."

Le Capitaine Chevalier également fit remarquer au Délégué Libérien qu'il ne se trouvait pas sur un point reconnu du territoire de Libéria; que, mouillé à une grande distance du littoral, il était dans la mer commune, en ajoutant qu'il s'opposait, en conséquence, de la manière la plus formelle à l'acte de visite que l'on voulait exercer sur son bâtiment, et qu'il ne céderait pas que devant l'emploie de la force.

Sur cette déclaration, l'embarcation Anglaise regagna *l'Alecto*, mais elle revint quelques instants après, portant deux officiers, le même Délégué Libérien, un policeman noir, et 8 matelots; tous étaient armés. Malgré les nouvelles observations du Capitaine Chevalier et du Représentant de l'Administration, un des officiers Anglais annonça qu'il allait, d'après l'ordre du Commandant du navire de Sa Majesté Britannique *l'Alecto*, visiter de force le *Phénix*. Ecartant un pavillon Français que M. Chevalier avait fait placer devant l'échelle du bord comme dernière protestation contre la violence dont on le menaçait, les deux officiers Anglais, le Délégué Libérien, et le policeman, montèrent en armes sur le pont du *Phénix*, tandis que les hommes restés dans le canot avaient leurs sabres dégainés et le revolver au poing. Ils exigèrent la production de tous les papiers du navire, des pièces Ministérielles relatives à sa mission de recrutement, ainsi que des instructions adressées au Délégué de l'Administration dont ils méconnaissaient ainsi le caractère, et procédèrent ensuite à l'interrogatoire des 11 engagés qui étaient à bord. Ceux-ci répondirent qu'ils y étaient venus librement, sauf un seul, le nommé Sévé, qui ayant pris part à la révolte qui a eu lieu sur la *Regina Cœli*, avait été capturé par un Chef de la Côte, lors de son évasion de ce bâtiment, et racheté par le Capitaine Chevalier dans l'intention de le remettre à l'autorité Française. Cet homme ayant déclaré qu'il avait été amené de force sur le *Phénix*, et qu'il désirait retourner à terre, le Délégué Libérien, sans tenir compte des protestations de M. Chevalier et de M. Boute, fit prendre le noir dans l'entrepont, et le fit descendre dans le canot Anglais, s'engageant seulement à rembourser le prix de son rachat, ce qui eut lieu en effet ensuite par la remise d'une somme de 150

francs. A la demande que le Commandant du *Phénix* fit alors à l'officier Anglais et au Délégué Libérien, à savoir s'ils étaient bien convaincus de la nationalité et de la régularité de ses expéditions, ils répondirent que "oui." Le Capitaine fut averti un peu plus tard qu'il lui était interdit de communiquer avec la terre, sous peine de voir faire feu sur ses embarcations, attendu qu'il devait considérer tous les points de cette partie de la côte comme dépendant du territoire de la République de Libéria ou du territoire Anglais. M. Chevlier fut ainsi obligé d'appareiller, en laissant à terre 7 émigrants dont il avait payé l'engagement dans la matinée, et que les Chefs ne purent envoyer à son bord à cause de la présence du croiseur Anglais.

Je vous prie, M. le Maréchal, de porter les faits qui précèdent à la connaissance du Cabinet de Londres, et pour que les circonstances dans lesquels ils se sont produits puissent être, de sa part, l'objet d'une appréciation exacte, je vous invite à laisser copie de la présente dépêche au Principal Secrétaire d'Etat de Sa Majesté Britannique. Je ne doute pas que Lord Malmesbury ne considère l'acte de visite que M. le Commandant James Hunt s'est cru permis à l'égard du *Phénix*, comme un incident d'une extrême gravité et qui appelle la plus sévère répréhension. Je ne crois pas nécessaire, après en avoir exposé les détails, d'en faire autrement ressortir le regrettable caractère; je me bornerai seulement à constater que c'est la seconde fois que le même officier de la Marine de Sa Majesté Britannique met le Gouvernement de l'Empereur dans l'obligation de réclamer contre sa conduite. Agréez, &c.

Le Duc de Malakoff. A. WALEWSKI.

(*Inclosure* 2.)—*The Earl of Malmesbury to the Duke of Malakoff.*

M. LE MARECHAL, *Foreign Office, April* 22, 1859.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 4th ultimo, inclosing a copy of a despatch from Count Walewski, relative to the proceedings of Commander Hunt, of Her Majesty's ship *Alecto*, in forcibly visiting the French ship *Phœnix*, off the African coast, in the month of November last; and I beg leave to acquaint your Excellency that I did not fail to transmit copies of your communications to the Admiralty, with a request that Commander Hunt might be called upon for an explanation of his proceedings in this matter.

Some delay has, however, unavoidably taken place in replying to your Excellency's note, in consequence of the *Alecto* being no longer in commission, and Commander Hunt having felt it necessary to call upon some of the officers who served under him to confirm certain statements which he has made in defence of his proceeding in this case.

I will, however, at once state to your Excellency, that Her

Majesty's Government do not pretend to justify Commander Hunt's conduct in this matter. On the contrary, they greatly regret that this officer should, although without any intention of offering an affront to the French flag, have given, by his proceedings, just cause of complaint on the part of the Imperial Government. For these proceedings the Admiralty have reprimanded and admonished Commander Hunt, and Her Majesty's Government acknowledge that an apology is due, and they trust that it will be accepted in the same frank manner in which it is now tendered by Her Majesty's Government.

Although, however, Her Majesty's Government disavow the proceedings of the Commander of the *Alecto* in visiting the *Phœnix* I think it right that the Imperial Government should know that Commander Hunt's account of what passed on this occasion is very different from that given by M. Chevalier, the Commander of the *Phœnix*.

Commander Hunt states, that the *Phœnix* was not boarded until all other measures had failed to ascertain her nationality; and he adds, that he thought he had good reason to suspect the nationality of this vessel:

1. From information received by Colonel Payne, the Attorney-General at Liberia, the vessel at Manna Rock was receiving slaves, and not emigrants, which information was corroborated by a white man and another person, detained in a canoe, who confessed that they had assisted to put slaves on board, bound and tied:

2. Because the master of the *Phœnix* refused, when repeatedly requested before being boarded, to show papers, register of authority of any kind, over the side of his vessel, which Commander Hunt states would have quite satisfied the officer sent to ascertain her nationality, and have prevented his going on board; and

3. Because, knowing that French vessels were prohibited by their instructions from shipping emigrants from the Liberian territory, he did not believe that a French vessel legally authorized would have been found in the act of shipping negroes from what he believed to be the shores of that country.

Commander Hunt moreover states, and his statement is confirmed by the master of the *Alecto*, and by the log of that vessel, that the place where the *Phœnix* was anchored was within two miles of the shore, and, therefore, within Liberian waters; and he adds, that M. Chevalier must have been fully aware of this fact, from his having, when engaged in procuring emigrants on a former voyage, asked and obtained permission from the Liberian authorities to ship emigrants from Manna Rock, the very place where he was engaged in procuring them when he was boarded by an officer from the *Alecto*.

It would indeed appear to be evident that Manna Rock is acknowledged by the French authorities on the African coast to be within the Liberian territory, from the fact that Commodore Protet, in a conversation which he had with Commodore Wise, informed that officer that he, Commodore Protet, had caused the Governor of Gorée to be suspended and sent to France, for sending the *Phœnix* to Manna Rock in the face of peremptory orders against vessels being sent to the Liberian coast for emigrants.

The statement contained in Count Walewski's despatch, with regard to the boat's crew that conveyed the British officers and the Liberian Attorney-General on board the *Phœnix*, being ready with drawn cutlasses and revolvers, is most positively denied by Commander Hunt, as is also the statement that the Liberian Attorney-General forcibly seized, and, notwithstanding the protests of M. Chevalier and the surgeon of the *Phœnix*, took out of that vessel one of the emigrants who had taken part in the revolt on board the *Regina Cœli*; the facts being, as regards the boat that visited the *Phœnix*, that the crew, consisting of 6, and not 8 men, as stated, remained quietly in the boat; the only persons who boarded the *Phœnix* besides the officer who made the visit, and who carried his side arms, being Mr. Coates, the second-master of the *Alecto*, the Liberian Attorney-General, the interpreter, and a policeman, who were all unarmed.

As regards the examination of the emigrants, and the removal of one of them from the *Phœnix*, Commander Hunt asserts most positively that the officers were invited by M. Chevalier and others to see the recruits, and that the boy was not forcibly taken out of the ship, but that on the contrary, that it was on M. Chevalier's own offer, suggestion, and permission, that the boy was received into the boat; and it appears, moreover, that Colonel Payne's

delegate on board the *Phœnix* are both of them open to blame for not having at once, when the *Alecto's* boat was alongside, made known the fact that the *Phœnix* was a Government ship with a delegate on board.

Had they done so, Commander Hunt states that he would not have proceeded as he subsequently did, to verify the ship's nationality. By the failure of the French officers to make known the true character of their vessel they, in the opinion of Her Majesty's Government, laid a trap for Commander Hunt, into which he allowed himself to fall.

I think it right to add, with reference to the last paragraph of Count Walewski's despatch, in which he states that this is the second complaint made by the Imperial Government against the Commander of the *Alecto;* that on the former occasion the complaints made were against the officers in command of the *Alecto's* boats on detached service, when they were under the orders of another cruizer, and for which, therefore, Commander Hunt could not be held responsible.

I am, &c.

The Duke of Malakoff. MALMESBURY.

No. 62.—Lord J. Russell to Earl Cowley.

(Extract.) *Foreign Office, June* 30, 1859.

I INCLOSE for your Excellency's information a copy of one letter and extracts of two others from Captain Rigby, the British agent at Zanzibar, to the Secretary to the Government of Bombay, which have been communicated to me by the Secretary of State for India, containing information respecting the proceedings of the French at Zanzibar and on the East Coast of Africa in connection with the Slave Trade.

Earl Cowley. J. RUSSELL.

(*Inclosure* 1.)—*Captain Rigby to Mr. Anderson.*

SIR, *Zanzibar, December* 24, 1858.

WITH reference to my letter to your address, dated the 13th instant, reporting the arrival in this port of the French ship *Alexandre*, of La Réunion, having on board about 300 slaves of both sexes, I have the honour to report, that I have since ascertained from personal observation, that the majority of the slaves on board are young children of both sexes, of ages varying from five to twelve years, and also several females with children at the breast.

I therefore beg to report this circumstance for the information of the Governor in Council, as I believe that the French authorities justify the traffic in slaves now carried on under the French flag, on the East Coast of Africa, under the pretence of the negroes

exported being free labourers or "engagés." who willingly bind themselves to serve for a term of years in French Colonies.

The French ship *Alexandre* has been condemned as unseaworthy and sold here, and the slaves transferred on board the schooner *Glorieuse*, which, though owned by a French merchant of this port, is under the flag of his Highness the Sultan Said Majid. Immediately I became aware of the slaves having been thus transferred, I expressed to his Highness my hope that he would not allow the French to convey these slaves away in any vessel under his flag, when I was pleased to find that his Highness had already, immediately on being made aware of the transfer, intimated to the owners of the *Glorieuse*, that he would deprive her of his flag and papers if she attempted to leave the port with these negroes on board, and similar notice has been given to the owners of all buggalows belonging to the port.

The Customs Master at this port informs me that upwards of 30,000 English sovereigns have been remitted here within the last few months from the small ports on the Coast of Africa, situated to the south of this; as no direct trade is carried on at these ports with any foreign ships, this money can only have been received in payment for slaves, and, estimating the price paid at 20 dollars per head, this would show that nearly 8,000 slaves have been purchased this season from this part of the coast alone.

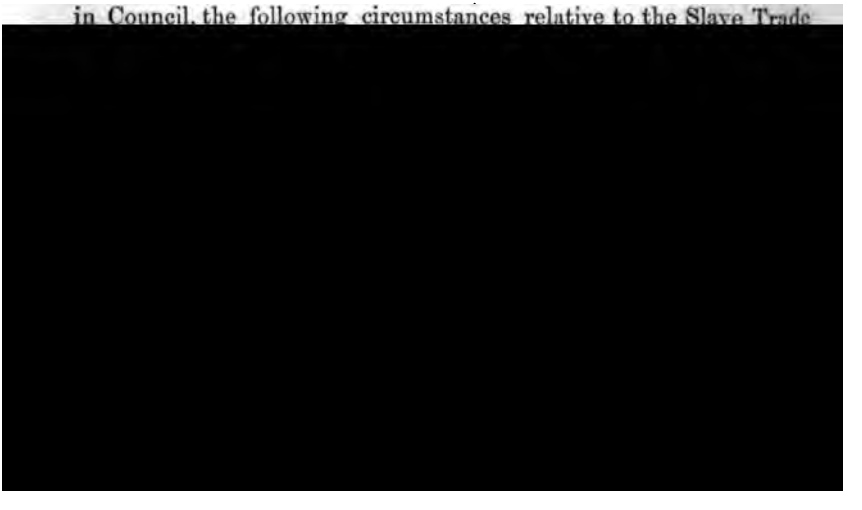
I have, &c.

H. L. Anderson, Esq. C. P. RIGBY.

(*Inclosure* 2.)—*Captain Rigby to Mr. Anderson.*

(Extract.) *Zanzibar, March* 16, 1859.

I HAVE the honour to report for the information of the Governor in Council, the following circumstances relative to the Slave Trade



there purposely to protect them in procuring negroes, and to prevent any interference with them in so doing.

This information has since been fully confirmed.

This open violation of the orders of the Sultan of Zanzibar, and the presence of a French ship-of-war for the protection of a traffic which his Highness has firmly resisted every attempt on the part of the French to establish, has caused considerable excitement amongst the inhabitants here, and made a painful impression on his Highness, who immediately on receiving a report on the subject from the Governor of Keelwa, despatched his yacht to Keelwa, with an order to the Governor, strictly forbidding the sale of slaves to the French, and also a proclamation to the inhabitants of Kivingia and Keelwa, and at the same time I sent a proclamation in the Guzarâté language to the same effect, addressed to the Banians and other Indian residents at the ports.

Two French slave ships recently arrived at Zanzibar from La Réunion for the purpose of secretly procuring cargoes of negroes, but finding that the cholera was raging here, they left without cargoes. One of these, the *La Gironde*, has gone to Muscat and Bombay, the other sailed to the south, to procure negroes from the Comoro Isles. At the time these vessels were in this port, a steamer under French colours was seen cruizing about to the north of the Island of Zanzibar, near the Island of Pemba, and the main land, evidently for the purpose of procuring slaves. I have heard for some time past that a steamer is employed in the traffic for the purpose of conveying slaves from the coast of Africa to the slave depôts at Noss-Beh and Mayotta.

A few days ago I received information from Mozambique that at Mamomba, on the west coast of Madagascar, six French vessels were shipping slaves, that three of these vessels were totally wrecked there during a violent hurricane on the 13th of February last, and that some men of their crews were murdered by the natives.

The proceedings of French slave-ships on the coast of Madagascar are creating a deadly feeling of hatred against all white men amongst the population of that coast, and have caused a stoppage of all trade. About one year ago, a French vessel was seized and burnt by the natives to the north of Mamomba, and all the crew put to death, owing to the natives of one tribe kidnapping those of other tribes to convey on board the French ships.

The American Consul at this port informs me that he has also made representations to his Government regarding the French Slave Trade, and the injury it is inflicting on the commerce of this port.

H. L. Anderson, Esq. C. P. RIGBY.

(*Inclosure 4.*)—*Captain Rigby to Mr. Anderson.*

(Extract.) *April* 4, 1859.

On the 21st March, the day before the arrival of the *Assaye*, the French Imperial schooner *L'Estafette*, six guns, arrived here from Keelwa Kevanzia, a small port on the coast of Africa, within the Zanzibar dominions, where she had been for some time openly protecting two French slavers in procuring slaves, in violation of the Sultan's authority and laws.

On the 29th March, the French corvette *Cordelière*, 20 guns, with the broad pendant of Commodore le Vicomte A. Heurist de Langlé, commanding the French Naval Division on the East Coast of Africa, arrived here from Mayotta.

H. L. Anderson, Esq. C. P. RIGBY.

No. 63.—*Lord J. Russell to Earl Cowley.*

(Extract.) *Foreign Office, July* 9, 1859.

I have to instruct your Excellency to bring under the serious attention of the French Government the conduct pursued by their agents in Zanzibar.

The proceedings of those agents, as far as regards the Slave Trade, appear to be at variance with the orders of the Emperor Napoleon, that the Slave Trade transactions which had been begun on the Eastern Coast of Africa should be discontinued; but further, your Excellency will explain to Count Walewski that the Imaum of Muscat enjoys the friendship of the British Government, and that the British Government takes a strong interest in his welfare and in his being free from molestation, and that the Imaum is bound by his engagements with Great Britain to prevent Slave Trade from being carried on by his subjects or within his dominions.

Earl Cowley. J. RUSSELL.

No. 68.—*Earl Cowley to Lord J. Russell.*—(*Received September* 19.)

(Extract.) *Paris, September* 18, 1859.

I have generally communicated to Count Walewski extracts from the different reports forwarded to me by your Lordship, relative to the working of the French scheme for procuring African labour. Yesterday Count Walewski placed in my hands a note verbale, answering some of the allegations made against French agents, of which I do myself the honour to inclose a copy.

Lord J. Russell. COWLEY.

(*Inclosure.*)—*Note Verbale.*

Septembre, 1859.

Le Gouvernement de Sa Majesté Britannique a communiqué au Gouvernement de l'Empereur, sous forme d'une note verbale, des

informations provenant de la Côte Orientale d'Afrique, et ayant un caractère officiel, au sujet de recrutements de travailleurs effectués sur les territoires du Sultan de Zanzibar par des bâtiments de commerce Français.

Cette note tend à établir une similitude entre ces recrutements et des opérations de Traite, et résume en ces termes les différents points sur lesquels le Gouvernement de Sa Majesté Britannique croit devoir appeler, à raison des renseignements qu'il a reçus, l'attention du Gouvernement de l'Empereur :

L'autorité du Sultan de Zanzibar, en ce qui concerne les efforts qu'il fait pour remplir consciencieusement ses engagements Conventionnels avec le Gouvernement Britannique au sujet du commerce des esclaves, est à dessein méconnue par les navires Français ;

Ces navires ne sont plus soumis à l'obligation d'avoir à bord un Délégué de l'Administration chargé de prévenir les irrégularités dans l'embarquement des noirs : on se procure ces noirs par un achat qui prouve qu'ils sont esclaves dans le vrai sens du mot et incapables de contracter un engagement volontaire pour servir dans les colonies Françaises ; en certains cas, leur extrême jeunesse les met évidemment hors d'état de passer de semblables engagements ;

Le recrutement irrégulier de noirs pour les colonies Françaises se fait sur une très grande échelle ;

Il est protégé par les navires de guerre de la Marine Impériale ;

Le commerce légitime en souffre partout, et s'en trouve même par suite complètement anéantis à Madagascar ;

La reconnaissance en dernier lieu du Sultan de Zanzibar par le Gouvernement Français et l'établissement dans ses eaux d'un Commandement Naval Français spécial, loin de mettre un terme à de telles calamités auront pour effet, on le craint, de les perpétuer par la pression morale, si non matérielle, qu'on exerce sur le Sultan ;

Les procédés des Agents Français en ce qui a trait au commerce des esclaves paraissent être en contradiction avec la résolution de l'Empereur d'arrêter les opérations qui s'effectuaient à la Côte Orientale d'Afrique, et qui avaient motivé des représentations.

La note verbale remise par son Excellence le Comte Cowley a été examinée avec l'attention prêtée en toute circonstance aux communications du Cabinet de Londres, et c'est après avoir pris tous les renseignements nécessaires pour être édifié sur les faits qu'elle signale, qu'on va répondre aux assertions énumérées ci-dessus, selon l'ordre dans lequel elles ont été remises.

Il n'est pas exact de dire que les navires de commerce Français ont méconnu à dessein le pouvoir du Sultan de Zanzibar dans leurs opérations de recrutement. Autorisés antérieurement à engager des noirs par voie de rachat, ils ont mit à profit la facilité qu'ils ont

trouvée sur plusieurs points de la côte à racheter des mains des Scheiks Arabes des noirs qui étaient en état d'esclavage, mais loin de vouloir donner à ces opérations, légales jusqu'au moment où l'Empereur en a prescrit l'interruption, le caractère d'une atteinte à l'autorité du Sultan de Zanzibar, ils ont chaque fois acquitté les droits de douane dus pour l'embarquement des enrôlés.

En ce qui concerne le fait que des Délégués de l'Administration Française ne surveilleraient plus les recrutements et le peu de moralité que présiderait aux engagements, on est fondé à répondre que ces allégations perdent toute vraisemblance en présence des instructions précises et répétées émanées du Gouverneur de la Réunion à l'effet d'entourer le recrutement des garanties les plus sérieuses de moralité et d'en assurer en toute circonstance le contrôle par des Agents spéciaux.

Quant au nombre des enrôlements irréguliers de noirs qui s'effectueraient pour les colonies Françaises, il est difficile qu'il ait été aussi considérable qu'on l'affirme, attendu que le recrutement par voie de rachat n'était permis par le Gouverneur de la Réunion que sur un très-peu nombre de points déterminées, et qu'en outre l'autorisation de s'y rendre dans ce but n'était accordée que sous certaines précautions et à un nombre de navires très-restreint.

L'allégation que les navires de guerre de la Marine Impériale protégeraient le recrutement irrégulier des noirs ne saurait être admise un instant. Les engagements par voie de rachat étant licites jusqu'à la détermination prise l'année dernière par Sa Majesté Impériale, ils ont en effet dû avoir lieu sous les yeux de navires de guerre Français, mais la présence de ces bâtiments, loin d'être de nature à provoquer des observations, témoignait de la surveillance exercée en pareil cas, conformément aux intentions du Gouvernement Français.

[redacted]

lorsqu'on a distrait de ce Département le service des colonies pour en faire un Ministère à part. Il n'y a donc eu dans le fait signalé qu'une mesure motivée par un remaniement d'administration intérieure et n'ayant en elle-même aucun sens particulier. A l'égard de la reconnaissance du Sultan de Zanzibar, l'interprétation qu'on lui donne n'est justifiée par aucun des actes du Commandant de la Division Navale Française ou du Consul de Sa Majesté Impériale à Zanzibar. Ce dernier Agent n'est intervenu dans les différends du Sultan Seid Medjid avec son frère de Muscate, Seid Towein, que pour conseiller un accommodement, alors que le Consul d'Angleterre, Mr. Rigby, tendait au contraire, par son attitude, à mettre obstacle à la réconciliation des deux frères. On serait en mesure de fournir à ce sujet des détails très précis, si on ne désirait éviter d'entrer ici dans des récriminations contre le Consul de Sa Majesté Britannique. Le Commandant de la Division Navale Française n'a pas suivi une autre ligne de conduite que le Consul de l'Empereur; il a tenu comme lui, dans les rapports qu'il a été amené à avoir avec le Sultan, le langage le plus conciliant, et le plus conforme au respect dû à son autorité. L'un et l'autre ont agi, en cela, selon les vues désintéressées du Gouvernement de l'Empereur. La reconnaissance du Sultan de Zanzibar n'a été, pour ainsi dire, que la démarche ordinaire de courtoisie motivée par un avénement, et dont le Gouvernement de Sa Majesté Britannique s'est acquitté le premier comme il était naturel de le faire. Elle a été seulement retardé en ce qui concerne le Gouvernement de l'Empereur par des circonstances indépendantes de sa volonté et tenant à l'éloignement de Zanzibar.

En réponse, en dernier lieu, à ce qui est allégué de la contradiction apparente existant entre les ordres de l'Empereur et les actes des Agents de son Gouvernement, on fera observer qu'elle tient uniquement à la date à laquelle se rapportent les informations sur lesquelles la note verbale Anglaise a été rédigée. Jusqu'au commencement de la présente année, les opérations par voie de rachat étaient, en effet, parfaitement autorisées, et le Gouvernement Britannique n'avait pas été tenu dans l'ignorance de la manière d'agir de l'Administration Française à cet égard. Mais les instructions envoyées dans les premiers jours de Janvier ont formellement interdit pour l'avenir les entreprises de cette nature précédemment permises à la Côte Orientale d'Afrique. Seulement un certain nombre de navires déjà partis, au moment où ces ordres sont arrivés à la Réunion, ont dû poursuivre et terminer leurs opérations. Mais aucun autre bâtiment n'a été ni ne sera autorisé à entreprendre des opérations de cette nature, et le Commandant des Forces Navales de Sa Majesté Impériale à la Côte Orientale d'Afrique sera de nouveau

invité à tenir rigoureusement la main à l'exécution des instructions du Gouvernement Français.

No. 74.—Earl Cowley to Lord J. Russell.—(Received February 12.)

My Lord, *Paris, February 11, 1860.*

M. Thouvenel has placed in my hands, with a request that I would call your Lordship's attention to the subject matter of it, a *note verbale*, of which I inclose a copy, complaining of the conduct of Mr. Rigby, Her Majesty's Consul at Zanzibar.

I have, &c.

Lord J. Russell. COWLEY.

(*Inclosure.*)—*Note Verbale.*

Février, 1860.

Le Gouvernement de l'Empereur croit devoir appeler l'attention du Gouvernement de Sa Majesté Britannique sur la conduite regrettable que le Consul Anglais à Zanzibar, M. Rigby, a tenu dans une circonstance récente à l'égard d'un administré du Consulat Français, M. Mas.

Le navire Espagnol *Caridad*, dont M. Mas était consignataire, étant arrivé à Zanzibar le 13 Novembre dernier, les papiers de ce bâtiment avaient été déposés au Consulat Français, et après s'être convaincu de leur régularité de de la légalité de l'opération commerciale pour laquelle la *Caridad* était envoyée à Zanzibar, le Consul de Sa Majesté Impériale avait chargé sa Chancellerie de l'expédition de ce navire. Mais les Autorités de Zanzibar firent des démarches répétées pour obtenir la remise des papiers de ce bâtiment, afin, disaient-elles, de les montrer à M. Rigby, qui représentait la *Caridad* comme venue à Zanzibar pour se livrer au trafic des noirs. Le Consul de France s'étant assuré, comme il le devait, qu'il n'en était rien, et ne pouvant admettre d'ailleurs que ses actes fussent soumis à un contrôle autre que celui de son Gouvernement, a dû nécessairement refuser de se dessaisir des papiers de la *Caridad*. Le Consul de Sa Majesté Britannique a fait alors placarder sur le bâtiment de la Douane de Zanzibar un écrit signé de lui par lequel il désignait M. Mas comme faisant le trafic des noirs, et interdisait aux sujets Anglais d'avoir aucune relation avec ce négociant. Bien que rien dans les actes de M. Mas ne justifiait une semblable accusation, elle ne pouvait manquer de porter une grave atteinte à son crédit et à celui des deux maisons Françaises de Marseilles dont il est le représentant. M. Cochet s'est donc vu dans le devoir de protester contre l'assertion de M. Rigby, et le lui à fait connaître. Le Gouvernement de l'Empereur n'hésite pas à penser que celui de Sa Majesté Britannique ne saurait approuver l'attitude de

Consul de la Reine dans cette affaire—attitude si opposée aux bons offices que les agents des deux pays doivent au contraire s'efforcer de se rendre réciproquement en toute circonstance, et qu'il le fera savoir à M. Rigby.

No. 75.—Lord J. Russell to Earl Cowley.

MY LORD, *Foreign Office, February* 29, 1860.

I HAVE received your Excellency's despatch of the 11th instant inclosing a *note verbale* which was placed in your hands by M. de Thouvenel, complaining of the conduct of Colonel Rigby, Her Majesty's Consul at Zanzibar, in having caused a notice to be affixed to the walls of the Custom-house at that place, warning British subjects not to have any commercial dealings with a person named Buena Ventura Mas.

I transmit to your Excellency herewith copies of 4 despatches and of their inclosures, from Colonel Rigby, giving a full account of this transaction, which I received almost simultaneously with your Excellency's despatch containing the French complaint.

The following is Colonel Rigby's version of this affair:

On the 11th of November last, a brig, under Spanish colours, arrived at Zanzibar; she had no name painted on any part of her hull; her rigging was disguised; she carried 8 guns on deck, which were not at the ports, but inboard for concealment; she was not consigned to any house at Zanzibar, and had no cargo on board; and it appeared evident to every nautical person that she was equipped for the Slave Trade. It was also ascertained that this vessel had come from Eboo, a port in the Portuguese territories on the East Coast of Africa, where the export of Slaves to Cuba, in vessels under the Spanish flag, is stated to have been carried on so extensively during the last few months as to have exhausted the supply of slaves.

The Sultan of Zanzibar, on becoming aware of the facts which induced suspicions as to the character of this vessel, sent the Captain of one of his ships of war to inspect her papers, when, the Master of the Spanish brig having stated that he had delivered them to the French Consul, the Sultan sent the same officer to the French Consulate to desire that he might be permitted to inspect the ship's papers, with a view to satisfy himself of her country and character.

The French Consul thereupon stated that the vessel, although under Spanish colours, was under French protection, and that he would not permit his Highness, or any of his authorities, to inspect her papers.

At this stage of the proceedings Buena Ventura Mas, who it seems is a Spaniard, residing at Zanzibar, though calling himself a

French subject, and who is stated to be a notorious slave-dealer, announced to the Sultan of Zanzibar his intention of proceeding in the Spanish brig to the port of Lamoo, situated on the East Coast of Africa, within his Highness's dominions.

M. Mas was thereupon told by his Highness that he would not permit the vessel to trade at any of his ports until the Commander had produced his papers, and satisfied the authorities that the vessel was a lawful trader.

A further application was then made by the Sultan to the French Consul, insisting on his right, as sovereign of the country, to satisfy himself of the character of every vessel coming to trade in his dominions, but the French Consul again refused to produce the ship's papers, and the brig sailed to Lamoo, with M. Mas on board, in spite of the Sultan having prohibited her from trading with his dominions.

As it is a matter of notoriety that the export of slaves for the Cuban market has been carried on to a considerable extent during the past year, from the East Coast of Africa, it cannot but be admitted that the refusal to produce this Spanish brig's papers was calculated to give rise to just suspicions with regard to the nature of the voyage on which the vessel was engaged; and the character of M. Mas, the agent who proceeded in her to Lamoo, was not such as to allay those suspicions.

Colonel Rigby states that about two years ago a brig called the *Venus*, sailing under Spanish colours, touched at Zanzibar under the pretence of trading, and that M. Buena Ventura Mas embarked in her, and went to Lamoo where he procured 500 slaves, whom he shipped in the *Venus* for Havana. I may here observe, in corroboration of the above statement, that from information received by Her Majesty's Government from Mozambique and from Cuba, the Spanish brig *Venus* did actually land a cargo of slaves in that island in the year 1858, and that the slaves so landed had been procured from the East Coast of Africa.

Colonel Rigby further states that he has been informed by the Customs' Master at Zanzibar, that only a few months ago M. Mas sent a slave-dealer to the port of Keelwa, within the Zanzibar dominions, and provided him with money to purchase slaves—that the slave-dealer, an Arab, by name Salim Jubram, accordingly purchased 424 slaves on account of Mas, but that, in consequence of the vessel which was to export them having become disabled at sea, the slaves were, by order of Mas, taken to Lamoo, and that of the number originally purchased, only 199 survived the transfer from one port to the other, the remainder having died, and the survivors having been sold at Lamoo by order and on account of M. Mas.

It moreover appears that Mas obtained the money which he

employed in his slave speculations at Keelwa, surreptitiously from a M. Bérard, a Frenchman, who is established as a merchant at Zanzibar, and who is stated to bear a strictly honourable character; and that M. Bérard, on learning that Mas was employing the money he had advanced in the purchase of slaves, repudiated the transaction.

M. Bérard informed Colonel Rigby that he did not complain to the French Consul because the latter would not attend to any complaints against M. Mas, but he stated that he had sent complaints to his own Government against M. Cochet, the French Consul, for undue partiality shown to Mas, to the prejudice of his, M. Bérard's, firm: and M. Bérard added that the slave traffic carried on by Mas is most injurious to the French trade at Zanzibar, as, with the profits arising from it, Mas is enabled to prevent any competition against him in the purchase of produce for shipment to France.

It was under the circumstances which I have described that Her Majesty's Consul issued the warning to British subjects which ha given rise to the complaint of the French Government.

Her Majesty's Government feel convinced that, when M. de Thouvenel placed the *note verbale* in your Excellency's hands, the Imperial Government could not have been aware of the true character of Mas, and the nefarious transactions in which he has been engaged.

If, as Her Majesty's Government do not doubt is the case, Colonel Rigby's account of this affair is correct, Mas has, by his slave dealings, not only violated the laws of the country in which he is residing, but also the laws of France; and Her Majesty's Government feel assured that, whether he be a Spanish or French subject, his proceedings will not be either countenanced or supported by the Imperial Government.

It is not the intention of Her Majesty's Government to make any comments on the conduct of the French Consul at Zanzibar in employing in his Consulate, and giving his official support to, a person who has been notoriously engaged in the traffic in slaves, a conduct which can hardly be supposed to meet the approval of the French Government; but there is another matter with regard to which it may perhaps be opportune that you should request explanations from M. de Thouvenel.

In the "Moniteur de la Colonisation" of the 27th of January of last year, an official announcement appeared, to the effect that the Imperial Government had given directions that the recruitment of negro labourers on the East Coast of Africa for the colony of Réunion should be abandoned.

Your Excellency will perceive, from Colonel Rigby's despatches, that, up to *the latest dates, French* vessels have been engaged in

shipping negroes clandestinely from the dominions of the Sultan of Zanzibar, in violation of the laws of Zanzibar, and in opposition to the wishes of the Sultan.

Her Majesty's Government cannot doubt that these proceedings have taken place contrary to the desire of the Imperial Government, and they feel confident that steps will be taken by the Imperial Government to put an end to these transactions.

I am, &c.

Earl Cowley. J. RUSSELL.

FRANCE (MARTINIQUE).

CONSULAR.

No. 76.—Consul Lawless to the Earl of Malmesbury.—(Rec. May 3.)

MY LORD, *St. Pierre, Martinique, April 2, 1859.*

I HAVE the honour to acquaint your Lordship with the arrival at this island of another of Messrs. Régis's vessels, the *Dahomed*, with labourers from the coast of Africa. This vessel sailed from Loango, on the west coast, on the 5th of February last, with 407 male adults, 86 female adults, and 31 non-adults, of both sexes.

She arrived in Fort de France Bay on the 25th ultimo, and landed two days afterwards 335 men, 79 women, and 26 non-adults, of both sexes.

It follows that the mortalities on board during the voyage, comprised 72 men, 7 women, and 5 non-adults, and several deaths, I am informed, occurred subsequently among them, before they had been made over by Messrs. Régis's agent here to the Commissary of Immigration.

The labourers brought by the *Dahomed* were recruited at Congo and Loango, and the mortalities referred to appear to have occurred almost exclusively among those embarked at the last-mentioned place. Dysentery seems to have been the disease which proved so fatal to these poor creatures. The *Dahomed* is an iron vessel, of 260 tons, French register, built at Glasgow, and she is provided with an auxiliary screw engine, which the total want of fuel prevented her from using during the voyage from the coast to this island. To this regrettable circumstance may be attributed, no doubt, the excessive mortality on board, for it seems that the disease, which proved so destructive, although it broke out shortly after the ship sailed from Africa, appears to have made most of its victims during the last 10 or 12 days of the passage. I have been informed that the master states in his report, that calms proved the principal cause of his being so long on the voyage to this island.

The ship *Ville d'Aigues Mortes*, whose arrival here, with African immigrants for Messrs. Régis, I had the honour to report to your Lordship in my despatch of the 13th December last, sailed from this port on the 26th ultimo, for the avowed purpose of introducing into this colony a further supply of African labourers; and I learn that the *Dahomed* also is at this moment preparing to return to Africa on a similar mission. I have the honour to inclose herewith a note of the principal articles which the *Ville d'Aigues Mortes* embarked here as sea stores. Among other things procured in this island are included 40,000 feet of pitch pine lumber, for the construction of the huts or "baraques" which it seems that Messrs. Régis are about to have erected on the coast for the reception of the labourers recruited by their agents there. If credit can be given to the assertions of the person who is their representative in this island, Messrs. Régis have no intention of abandoning their project for the introduction of African labourers into the French possessions in those seas; but the recruitment is in future to be carried on at certain points only of the coast, and subject to new regulations, and the supervision of an agent of the French Government.

I feel bound to mention, in conclusion, that the *Dahomed* appears to have been provided with a properly qualified medical man, and that the immigrants seem to have been attended to on board as well as was possible under the circumstances. I have, &c.

The Earl of Malmesbury. WM. LAWLESS.

No. 77.—Consul Lawless to the Earl of Malmesbury.—(Rec. June 2.)

My Lord, *St. Pierre, Martinique, May 12, 1859.*

I have the honour to inform your Lordship of the departure from this port, on the 10th instant, of the screw steamer *Dahomed*, belonging to the firm of Messrs. Régis, of Marseilles, whose arrival at this island with African immigrants I had the honour to report to your Lordship in my despatch of the 2nd ultimo.

I have been informed that the *Dahomed's* destination just now is Congo and Loango, on the coast of Africa, at which places she is to embark another cargo of Africans for conveyance to this colony, or to the neighbouring island of Guadaloupe. The departure in the *Dahomed* of the Government Delegate, who accompanied the immigrants introduced by the vessel on a late occasion, seems to confirm the above report. I have, &c.

The Earl of Malmesbury. WM. LAWLESS.

No. 78.—Consul Lawless to Lord J. Russell.—(Rec. November 1.)

MY LORD, *St. Pierre, Martinique, September 30, 1859.*

I HAVE the honour to report, for the information of your Lordship, the arrival at Fort de France, in this island, of the auxiliary screw steamer *Stella*, from the coast of Africa, with 562 African immigrants. This vessel sailed from Loanga, on the west coast, on the 22nd of August, and she arrived at this island on the 28rd instant. She embarked on the coast 642 immigrants, as follows, viz., 461 male adults, 150 female ditto, 29 non-adults, of both sexes, and 2 children.

Of the above number 80 died during the voyage, which lasted 31 days, principally of dysentery; and many of those landed were in a very weak state.

The *Stella* belongs to the firm of Messrs. Régis and Co., of Marseilles, by whom these immigrants have been introduced, and she has already sailed for Africa for another cargo, while it is said that the *Dahomed*, a sister vessel, also the property of Messrs. Régis, is expected to arrive from day to day, either here or at the neighbouring island of Guadaloupe.

The official tonnage of the *Stella* is 640 tons, including the space allotted for her engines of 60-horse nominal power, and 384 tons for cargo.

I have to state, in conclusion, that the regulations in force, in France respecting the sanitary measures to be adopted on board, appear to have been conformed to, and the vessel was provided with a properly qualified medical attendant. I have, &c.

Lord J. Russell. WM. LAWLESS.

No. 79.—Consul Lawless to Lord J. Russell.—(Rec. November 1.)

(Extract.) *St. Pierre, Martinique, September 29, 1859.*

[redacted]

Guadaloupe. After a delay of some weeks the Governor of that colony was obliged to despatch the remainder in a war steamer to this island, where they immediately found employment, notwithstanding the rather onerous conditions of the engagement, obligatory in the case of this class of labourers.

The number of Chinese received from Guadaloupe amounts to 225, forming a total of 556 introduced into this colony.

Lord J. Russell. WM. LAWLESS.

No. 80.—*Consul Lawless to Lord J. Russell.*—(*Rec. Jan.* 20, 1860.)

My Lord, *St. Pierre, Martinique, December* 30, 1859.

I have the honour to inform your Lordship of the arrival at the port of Fort de France in this island, of two vessels from the coast of Africa, with negro immigrants. One of these ships, the *Splendide*, belongs to the firm of Régis and Co., of Marseilles, the other, the *Tigre*, has been chartered for the account of two wealthy planters of this colony.

The former vessel has come from Loango, and the latter from Gabon.

The total number of Africans landed here from both vessels is stated to be 846, but the number embarked in Africa I am not as yet acquainted with. I shall have the honour of transmitting to your Lordship by the next mail further particulars connected with these vessels. I have, &c.

Lord J. Russell. WM. LAWLESS.

MEXICO.

No. 83.—*Mr. Mathew to Lord J. Russell.*—(*Rec. Feb.* 1, 1860.)

My Lord, *Mexico, December* 27, 1859.

I have the honour to transmit herewith a copy of a despatch from Her Majesty's Vice-Consul in Yucatan, under date of the 28th November, with regard to the seizure of the ship *Catarina* as a slaver.

The Government at Vera Cruz, whose rule extends over that province, have given orders for her transmission to that port.

M. Regil y Peon intimates that many vessels, coming from The United States, have recently been fitted out for the African Slave Trade in Yucatan. I have, &c.

Lord J. Russell. GEORGE B. MATHEW.

(*Inclosure.*)—*Vice-Consul Peon to Mr. Mathew.*

SIR, *Merida, November* 28, 1859.

IN compliance with my duty, I beg to inform you that the ship *Catarina*, having been seized on the coast of this peninsula, upon suspicion of being engaged in the Slave Trade, the competent authority has decided upon placing her at the disposal of the district court of Vera Cruz, in conformity with the stipulations of the Treaty celebrated in the month of June, 1843, between Her Majesty's Government and that of this Republic.

According to the declaration of the boatswain the vessel in question is American, as were also her crew; and they sailed from New York for Africa, from whence they came to the coast of the Island of Cuba, where they succeeded in landing 800 negroes.

The captain and mate have not been apprehended, the authorities having only secured the boatswain, and two sailors, Greeks by birth, but naturalized citizens of The United States.

The Government of this State, on rendering an account of this affair to the Supreme Constitutional Government, have, I am assured, requested that the vessel might not be sent to Vera Cruz, although judged there, but that, after being condemned, she should be sold at Sisal and the proceeds applied to meet the many exigencies of the Administration.

I have reason to fear that as Sisal is an open and unprotected port, and as, to save expense, there may not be a sufficient guard on board, the said vessel may disappear some night in derision of the fulfilment of the law.

I also avail myself of this opportunity to bring to your knowledge, although without being able to vouch for the truth of the assertion, that I am told some vessels have lately fitted out at the port of Campeachy for the coast of Africa, and that some of them return to the above-named port, after having landed negroes on the Island of Cuba. At this moment, it is said, there is a barque there waiting for a crew from the Havana, in order to set sail in the prosecution of this illegal and abominable traffic.

I have, &c.

G. B. Mathew, Esq. PEDRO DE REGIL Y PEON.

NETHERLANDS.

No. 89.—*Mr. Ward to the Earl of Malmesbury.*—(*Rec. Feb.* 21.)

MY LORD, *The Hague, February* 17, 1859.

AMONG the petitions presented to the Second Chamber of the States-General against the Government Bill for the abolition of slavery in the Dutch West India possessions is to be found one on

behalf of English colonists, owners of, or interested in, plantations in Surinam.

The petitioners use the strongest terms with respect to the proposed measure, characterizing it as an almost complete confiscation of their property in Surinam, and not hesitating to declare their belief that there is no example in any civilized State of a project so destructive of the rights of property as the one in question ever having been taken into serious consideration, even during the anarchy of a revolution.

In conclusion, they express their opinion that the Chamber will find sufficient in the argument which they have brought forward to refuse their assent to the measure, or at least to introduce into it the following amendments:

1. That the amount of compensation shall be proportioned to the value of the property of which the petitioners are about to be despoiled.

2. That it shall be paid in cash, and the project of the bank be set aside.

3. That the plan of Government plantations be not approved of.

4. That the emancipated slaves shall remain in the plantations where they are now established, until provision shall be made for a sufficient introduction of immigrants.

This petition is signed by R. Kirk, C. Gray, G. Nicholson, G. M. Donald, Adam Pearson, and Widow Ferrier.

I have, &c.

The Earl of Malmesbury. WILLIAM R. WARD.

No. 90.—Mr. Ward to the Earl of Malmesbury.—(Received May 3.)

MY LORD, *The Hague, April 30, 1859.*

I HAVE the honour to inclose, for your Lordship's information, a copy of a letter addressed to me by the Secretary of the British and Foreign Anti-Slavery Society, requesting me to take steps for placing in the hands of His Majesty the King of The Netherlands a memorial from the Society on the subject of the petition of certain British subjects, owners of slaves in the Dutch colony of Surinam, which, as I had the honour of reporting to your Lordship in my despatch of the 17th February last, was recently presented to the Second Chamber of the States-General of The Netherlands.

I have accordingly transmitted the memorial to the Baron de Goltstein, requesting his Excellency to take an opportunity of placing it in the hands of His Majesty.

Copies of my note and of the memorial are likewise inclosed.

I have, &c.

The Earl of Malmesbury. WILLIAM R. WARD.

(*Inclosure* 1.)—*Mr. Chamerovzow to Mr. Ward.*

SIR, *London, April 26, 1859.*

I BEG to transmit, through the medium of one of our correspondents at the Hague, the original of a memorial to His Majesty the King of The Netherlands, which the Committee of this Society has adopted on the subject of a petition which has been recently presented to the Second Chamber of the States-General of Holland, on behalf of certain slaveholders in Surinam, being British subjects.

The Committee are desirous that their memorial should be placed in the hands of the King without any delay. I addressed a letter to his Excellency Baron Bentinck, requesting him to forward the same for presentation; but his Excellency has declined doing so, pleading that his instructions preclude his interference in such cases, but suggesting that I should send the document to you. I have, therefore, the honour to submit to you, with the memorial, the wishes of the memorial, and to beg that you will please to take the necessary steps for placing it in the hands of the King.

W. R. Ward, Esq. L. A. CHAMEROVZOW.

(*Inclosure* 2.)—*Mr. Ward to Baron de Goltstein.*

THE Undersigned, Her Britannic Majesty's Chargé d'Affaires, has the honour to forward to his Excellency the Baron de Goltstein, Minister of Foreign Affairs, a memorial to His Majesty the King of The Netherlands, on the subject of a petition which has been recently presented to the Second Chamber of the States-General of The Netherlands on behalf of certain slaveholders in Surinam, being British subjects.

This petition has been transmitted by the Committee of the British and Foreign Anti-Slavery Society to the Undersigned, for presentation to His Majesty.

In requesting the Baron de Goltstein to take an opportunity of placing this memorial in the hands of the King his Sovereign, the Undersigned, &c.

Baron de Goltstein. WILLIAM R. WARD.

(*Inclosure* 3.)—*Memorial to the King of The Netherlands.*

SIRE, 27, *New Broad Street, London, April* 6, 1859.

THE attention of the Committee of the British and Foreign Anti-Slavery Society has been directed to a memorial, bearing date December, 1858, addressed to the Second Chamber of the States-General of The Netherlands, by the representations of certain slaveholders in Surinam, and by certain other slaveholders, themselves British subjects. Were these persons subjects of the King of The Netherlands, interference on the part of the Committee might be unbecoming and intrusive. The memorialists, however,

are not only British subjects, but they address The Netherlands' Government in that capacity. The Committee therefore respectfully submit that this fact renders it incumbent upon them, as the representatives of a society whose object is to accomplish the universal extinction of slavery, to protest in the strongest terms in their own name, as well as in that of their constituents, against every attempt on the part of their own fellow-countrymen to perpetuate the system in a foreign colony.

The memorialists to the Second Chamber can scarcely be ignorant of the strong feeling against slavery which pervades the mind of the British public, nor doubt that their pretensions will be viewed in England with disfavour, as an outrage upon the enlightened humanity of the age and the Christian sentiment of the country. Yet in taking exception to the vital clauses of the Bill for the abolition of slavery in the Dutch colonies, now under the consideration of The Netherlands' Government, they are obstructing the progress of a measure, the object of which commends itself to every friend of humanity, and the speedy realization of which is ardently to be desired.

The memorialists complain: 1st, of the inadequacy of the compensation money; 2nd, of the mode in which it is to be paid; 3rd, of the contemplated establishment of Government plantations; and 4th, they demand that the slaves shall be obliged to remain upon the estates where they are now located, that their emancipation shall not take place under a given number of years, and not until a sufficient supply of emigrants has been procured.

The Committee do not deem it to be their province to offer any observation upon the project of The Netherlands Government, to which the memorialists take exception. They rejoice that it is seriously addressing itself to the accomplishment of the great work of emancipation, and sincerely trust it will not allow itself to be turned aside by the opposition it may encounter from those who are interested in the maintenance of the present system, and that it will steadfastly resist the importunate demands of the memorialists. Deeply do the Committee regret that any British subject should be found, at the present day, owning slaves and slaves' property in a foreign land, and aggravating the shame and the disgrace by impeding the progress of a measure framed with a view to give immediate freedom to those they unrighteously hold in bondage. Shameful is the confession of those men that they own, in value, one-third of the whole plantations in Surinam. Other British subjects there are whose names are not appended to the present memorial, but who also hold slave-property in Surinam, and are therefore involved in the censure which attaches to the actual memorialists. They are H. Wright, B. Lyon, J. Lyon, J. Tyndall, G. B. Conolly, J. Robinson,

R. Wright, J. E. Ellis, J. B. Barry, W. Jackson, W. Christie, A. McIntosh, G. Fraser, M. Balfour and heirs, J. Hamilton, B. McCruden, J. Robertson, and T. Green. To these may be added the names of Sir J. Young, Bart., of London, late High Commissioner of the Ionian Islands, owner of Plantation Petersburg, of 625 acres, with 292 slaves, and Plantation Kent, of 1,000 acres, with 329 slaves; and Messrs. M. F. Barry, of Boulogne-sur-Mer and Bath, owner of the half of Plantations Alkmaar and Fredericksdorp. The Committee cannot forget that the parties last named, together with Mrs. Ferrier, of Glasgow, the owner of the other half of Plantations Alkmaar and Fredericksdorp, petitioned the British Ambassador at The Hague in 1852, through the Messrs. Wittering Brothers, of Amsterdam, to use his influence with the Imperial Government to obtain compensation for them, and for the yet unborn children of the slave mothers they owned, whom it was proposed by a Bill, then before the Netherlands Government, to declare free as soon as they should be born.

The Committee will not dwell upon the various pleas these slave-owners urge in support of their pretensions, but they consider themselves bound to protest against the calumnious assertion that the emancipated negro will not labour for wages, which is alleged as one prime reason for advising the delaying of emancipation until immigrant labour can be obtained. The Committee are aware that there is a prevalent tendency of opinion in favour of this view, and that it is said emancipation caused a deficiency of available labour and consequent abandonment of estates, followed by a great depreciation in the value of West India property. These allegations, however, have been triumphantly refuted over and over again. It is even asserted, on the highest official authority, that no estate in the British West Indies can be shown to have been abandoned for absolute want of labour, though many properties have been permitted to go out of cultivation for want of requisite capital. Equally untrue is it to attribute to emancipation any depreciation which has taken place in the value of property in the British West Indies. It is established beyond a doubt that for many years antecedent to that great and memorable act of national justice, the monstrous mismanagement of estates had involved them inextricably in debt, and that the abolition of slavery only brought affairs to a crisis, scarcely hastening the ruin already then inevitable.

It may suit the immediate objects of the memorialists to promulgate statements which are directly opposed to well-ascertained facts; but in doing this they are only following the example set by the West India Proprietary in this country during the agitation for the abolition of slavery throughout the British colonies. It appears to the Committee that the memorialists have given up their own case,

by admitting that "as condition of their possessions they had accepted the risks attending the institution of slavery." Surely one of these risks was the contingency of emancipation, upon whatever condition it might ultimately be declared. They have therefore, according to their own admission, no right to ask the Netherlands Government to arrest, for their benefit, the progress of the important measures under consideration, nor to make them the objects of special favour. Besides, and referring to the scale of compensation awarded to Dutch slaveholders in British Guiana under the British Emancipation Act, the utmost they claim at the outside is the rendering back of "an equal measure of justice to the English colonists of Surinam." The Committee submit most respectfully that these persons have no right to expect, still less to demand, a larger compensation than is to be awarded to the Dutch slaveholders. It is to be presumed that in fixing the amount of compensation, the Netherlands Government has been guided by the experience of competent judges of the actual value of slave property in Surinam. The British slaveholders have cast in their lot with the Dutch proprietors, and are bound to abide by the decision of the Government which recognizes their claim to compensation.

The Committee would observe, that the case of the memorialists is not strenghtened by the use they make of the consideration which guided the British Government in adopting compensation as a principle of their Act of Emancipation, and in regulating the amount of it. The fact is notorious, that a considerable number of the anti-slavery party in this country, including some members of the Committee who unite in the present address, were totally opposed to compensation, believing, if any one was entitled to it, that person was the slave. But even were the Committee to admit that compensation ought to be a principle of emancipation, they respectfully submit that British slaveholders in Surinam have no claim to be placed in an exceptional category,

In this opinion the Committee are strongly confirmed by the very decided views expressed by the Earl of Malmesbury in 1852, on the occasion of the shameful application made on behalf of Sir John Young and others, through the Messrs. Wittering Brothers, of Amsterdam, already referred to. On that occasion the Earl of Malmesbury, then Foreign Minister, addressed these memorable words to the British Ambassador at The Hague, and instructed him to lay the whole correspondence before Baron van Zuylen van Nyevelt:—"You will say, first, that Her Majesty's Government have no sympathy with British subjects who own slaves in foreign countries; and secondly, that they think the emancipation of slaves is so much more important to the welfare of the human race than the interests of any British subjects who may consider they are

entitled to compensation for losses sustained in consequence of the emancipation of slaves in foreign countries, that far from throwing any obstacle in the way of any other Government which may entertain an intention of emancipating slaves, they will not claim compensation for losses sustained by British subjects through the enactment of laws by any foreign countries is, that in case of emancipation, they shall be placed on the same footing as slaveholders who are subjects or citizens of the emancipating country." In these sentiments, save in so far as the principle of compensation is involved, the Committee most cordially concur, and would ask what new circumstances have arisen to warrant the preferring of so disgraceful a request as that which is now again addressed to the Netherlands Government by these same British slaveowners.

The memorialists demand that emancipation shall not take place till a sufficient supply of immigrant labour has been secured. Here again they furnish arguments against themselves. They are at considerable pains to demonstrate that neither Africans, Indians, Chinese, nor Portuguese can be procured, save at an expense which places immigration out of the question. It must be admitted that they establish their case, and it would be doing them great injustice not to allow them the full benefit of their own conclusions. But if they foresee the failure of immigration into the Dutch colonies, with what degree of consistency can they require that the Netherlands Government shall delay emancipation until immigration has rendered them independent of the creole labourers? Would not this be tantamount to an indefinite postponement of the whole question? In reply to the objections of the memorialists to the provisions of the proposed measure for maintaining industrial habits amongst the liberated slaves, it may be suggested that the obvious remedy for the inconvenience they profess to anticipate is, to hold out proper inducements to the negro to remain upon the estates. It is a recognized fact that any inconveniences which the planters of the British colonies may have been subjected to from a want of labour, may be traced in almost every case to their own misconduct. Let the Surinam planters but treat the emancipated slaves as men, justly, humanely, not with the cruelty the memorialists admit is practised upon them, and they will find no difficulty in obtaining labour. At least this is the general testimony borne by competent witnesses in our West India colonies. No system of apprenticeship will meet the anticipated dilemma which the slaveholders in Surinam profess to fear; and it is in bold defiance of facts the memorialists assert that the system came to a premature close, in the sense of having been terminated too soon in the British colonies. In British Guiana the termination of the apprenticeship system was the only solution of a state of things which threatened the very existence of the

colony. In one or more of the other colonies the planters would not avail themselves of it at all, and found their advantage in this course. None should know these facts better than the memorialists. The picture they have drawn of the advantages of the negro would enjoy under the system of apprenticeship advocated by them is therefore purely imaginary. A similar one was painted by the opponents of emancipation in this country. Freedom cannot be partial. It must be absolute, or it is nothing but a delusion. In conclusion, the Committee, while again referring to the despatch of the Earl of Malmesbury above quoted, as laying down what they conceive to be the only principle upon which the claims of the memorialists ought to be adjusted, would beg leave respectfully to submit the following copy of a circular despatch, addressed by the Earl of Clarendon, in 1856, to all Her Majesty's Consuls, for their guidance.

(Here follows despatch of January 19, 1856. Vol. XLVI. Page 995.)

The Committee conceive that they might, upon such grave authority as this, venture seriously to call in question the right of the memorialists to assert any claim at all for compensation; but, even where such right indisputable, it is clear that they have no moral justification for preferring a request which is calculated to embarass the Netherlands Government, and to impede its efforts to effect the abolition of slavery.

That these efforts may be eminently successful and favoured with the Divine blessing is the sincere wish of the Undersigned.

On behalf of the Committee,

THOS. BINNS, *Chairman.*

L. A. CHAMEROVZOW, *Secretary.*

PERSIA.

No. 103.—*Mr. Doria to Sir C. Wood.*—(*Received August* 28.)

SIR, *Camp at Sultaniah, July* 26, 1859.

In consequence of representations sent to me by Captain Jones, the British resident at Bushire, that several instances of importation and successful landing of slaves had lately taken place at Lingah, I addressed a letter to the Minister for Foreign Affairs, of which I have the honour to inclose a copy for your perusal.

His Excellency, in compliance with my request, promised to give instructions to the Prince Governor of Fars to guard against the future recurrence of similar proceedings.

I have the honour to inclose a translation of his Excellency's answer to my communication on the subject.

I have, &c.

Sir C. Wood. WM. DORIA.

(*Inclosure* 1.)—*Mr. Doria to Meerza Said Khan.*

July 21, 1859.

It has again become my duty to trouble your Excellency on the subject of the Slave Trade which is openly carried on within the territory of the Chief of Lingah in the Persian Gulf.

I have the honour to inclose a list of vessels which it has been ascertained have lately carried slaves to Lingah, and which have been successfully landed and taken beyond reach of being discovered.

This has been effected through the evasive answers given by the Chief of Lingah, when first applied to by the Slave Trade Commissioners.

The criminal conduct of the Chief of Lingah is deserving of signal reprehension.

From the inclosed extract, addressed to Captain Jones by the British Agent at Lingah, your Excellency will observe that the Chief of Lingah has neither answered his communication or granted him an interview.

I have to bring to your Excellency's knowledge another case of open breach of the regulations, with reference to a buglah called the *Sahab;* this vessel was boarded and searched by the competent authorities while off the coast of Oman, near Muscat. A slave was found on board, who the owner pretended had been in his possession this ten years. This it is impossible to believe, because the slave could speak no language but his native tongue. Moreover, he was not furnished with the necessary passport, as laid down by paragraph 2 of the Agreement made by the Persian Government, "that slaves who have been heretofore in Persia wishing to go by sea to Mecca or India, must procure a passport from the officers at the head of the Passport Office at Bushire."

The Slave Commissioners, notwithstanding this infraction of the regulations, refused to co-operate with the English officer, and the vessel was allowed to proceed on her voyage; the vessel belongs to merchants of Lingah.

In bringing these circumstances under the consideration of your Excellency, with a view to the immediate suppression of this nefarious trade, I beg to call to your Excellency's recollection that it was only seven months since, by His Majesty the Shah's command, that a letter was addressed to the authorities for the suppression of the Slave Trade, for the further prevention and better guarding

against the introduction of slaves, I therefore have to urge upon your Excellency the necessity of taking immediate steps to insure the future obedience to the instructions and orders issued by the Persian Government, and I venture to recommend to your Excellency that the Chief of Lingah should be visited by some special mark of His Majesty the Shah's displeasure.

Meerza Said Khan. WM. DORIA.

(*Inclosure* 2.)—*Meerza Said Khan to Mr. Doria.*

(Translation.) *July* 26, 1859.

AFTER fully understanding your letter of the 21st, referring to the behaviour of the Sheikh of Lingah, and the non-fulfilment of the instructions issued to the Commissioners, regarding the exportation of slaves, which it was their duty to carry out, and the other question regarding the Captain of the vessel named *Sahab*, it has become necessary to state to you in reply, that the Persian Ministers have been, and are always ready to act in accordance with the Articles of the Treaty concluded between the two High Powers. This affair which you allude to, if it should prove to be correct, is of course contrary to the desire of the Persian Government, and it has arisen from the recent change of Governors in Fars. His Royal Highness Sooltan Moorad Meerza had not then assumed the Government, and had issued no orders regarding the administration of the said province and its seaports.

Strict orders necessary in this case have been issued, in order that any offence which may have been given by the Sheikh of Lingah or others, may be investigated, and punishment administered to the offenders, in accordance with the Articles of the Treaty; and likewise that an arrangement may be made to insure proper order being observed for the future, of which arrangement the Persian Ministers are to be informed.

As it was necessary that you should be informed of the orders issued in this matter by the Persian Ministers, I have troubled you with this letter.

W. Doria, Esq. MEERZA SAID KHAN.

No. 105.—*Mr. Doria to Sir C. Wood.*—(*Received November* 19.)

SIR, *Camp near Tehran, October* 17, 1859.

I HAVE the honour to inclose for your information copy of Meerza Said Khan's reply, with its two inclosures, which his Excellency has favoured me with, in answer to my communication, transmitting to his Excellency a report sent to me by Captain Jones from Bushire, relative to the importation of Slaves in the Gulf; setting forth the culpability of the Chief of Lingah in sanctioning

the clandestine landing of slaves within his territory, and their ultimate departure into the interior.

Notwithstanding the assurances from the Persian authorities in Fars, addressed to Meerza Said Khan, I cannot feel otherwise than persuaded that the information furnished by Captain Jones is materially correct, and I shall take an early opportunity to bring under Meerza Said Khan's consideration, that an active and sincere co-operation with the English authorities on the part of the Persian officers appointed for the suppression of the Slave Trade in the Gulf, is the only certain mode of insuring success in their undertaking.

I have, &c.

Sir C. Wood. WM. DORIA.

(*Inclosure* 1.)—*Meerza Said Khan to Mr. Doria.*

(Translation.) *September* 13, 1859.

I HAVE understood the contents of your letter of the 5th instant in which you state that 51 slaves had been landed at the port of Lingah, and that the Sheikh of that place had failed to deliver them up. I have also carefully perused the copy of the letter written by the Resident at Bushire.

In reply, I beg to state, that in consequence of your first communication, I had written to the authorities in Fars to make a careful investigation into the facts, and should it appear that the Sheikh of Lingah was implicated in the matter, to bring him severely to account, and prevent him from again engaging in a proceeding which was at variance with the agreement entered into by the Persian Ministers. About the same time when your letter reached me, I also received the answers of the authorities in Fars, in which the particulars are mentioned. As a perusal of these papers will put you in possession



Mahomed Ali has also shown me the copies of your Excellency's correspondence with the English Chargé d'Affaires.

With regard to the matter of the slaves, which you wrote in strong terms about, Meerza Mahmood Khan (the Persian Slave Commissioner) having just arrived here when your letter reached me, I sent for him and made inquiries into the question. It appeared that some time since the English officers made a statement to him on this subject, and accordingly he investigated the affair, but could find nothing to prove the case. Meerza Mahomed Ali has reported the particulars to you, with which you will become acquainted. I have again given strong injunctions to Meerza Mahmood Khan and to Meerza Koochook, whom I have despatched to Lingah to act as superintendent there, to exert themselves in order to prevent any infringement of the regulations in this matter.

(*Inclosure* 3.)—*Meerza Mahomed Ali to Meerza Said Khan.*

May I be your sacrifice, (Translation.) *August* 16, 1859.

I HAVE received by the courier of the 12th of August, the letters which your Excellency wrote to me on the 3rd, and I have understood the instructions they contained. With regard to the conduct of the Chief of Lingah and the want of attention on the part of the Persian authorities to the fulfilment of the regulations regarding the Slave Trade, and also with reference to the proceedings of the captain of a bughal named *Sahib*, which, having been represented to your Excellency by the English Mission, you communicated to the Prince Governor and to myself, with instructions for me to be vigilant in the matter, it fortunately happened that Meerza Mahmood Khan, who has for a long time been superintending these affairs, under orders from the Persian Government, and who had placed one of his subordinate officers at the port of Lingah to put a stop to this trade, having received permission to come to Sheeraz for three months on sick leave, had just arrived in this city.

The Prince Governor summoned him to his presence and made inquiries on the subject. He stated that, some time ago, a communication to the above effect having been made to him by the British authorities, he had sent one of his officers to investigate the matter, and one slave was found on board the bughal, the captain of which brought forward a number of witnesses to prove that this slave had been for years in his possession, that he had a wife then living in his house, and that he had not been recently imported.

With this exception no slaves were found on board. The Prince therefore gave strict orders to Meerza Mahmood Khan and also to Meerza Koochook, who is proceeding to Lingah on the part of the Prince, to attend most carefully to this matter. He further commanded Meerza Mahmood Khan, on his return to Bushire, to

proceed himself to Lingah, and there to investigate fully the question, and to give strict injunctions on this head. Meerza Koochook is to reside at Lingah, and therefore there is no likelihood of any neglect being shown in the matter. I have presumed to state this for your Excellency's information.

Meerza Said Khan. MEERZA MAHOMED ALI.

PORTUGAL.

No. 111.—*Mr. Howard to the Earl of Malmesbury.*—(*Rec. June* 25.)

My Lord, *Lisbon, June* 18, 1859.

In execution of the instructions contained in your Lordship's despatch of the 8th instant, I this day addressed to the Duke of Terceira the note of which I have the honour to inclose a copy, requesting the transmission by the earliest opportunity of instructions to the Portuguese Commissioners at the Cape of Good Hope, to be guided by the recorded opinions of both the Governments of Great Britain and Portugal in respect to the election of an arbitrator in cases of differences between them and the British Commissioners in the Mixed British and Portuguese Commission.

I have, &c.

The Earl of Malmesbury. HENRY F. HOWARD.

(*Inclosure.*)—*Mr. Howard to the Duke of Terceira.*

M. le Ministre, *Lisbon, June* 18, 1859.

A question has arisen between Her Majesty's Commissioners at the Cape of Good Hope and those of His Most Faithful Majesty, as

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in the same case ought to be referred, and they pressed on their colleagues their desire to abide by that opinion.

To this the Commissioners and Aribitrator of His Most Faithful Majesty declined to accede, expressing their determination not to proceed with the business rather than adopt it.

This course of proceeding appears to be directly at variance with former assurances received from the Portuguese Government. In consequence of representations from that of Her Majesty in the case of the ship *Galianna*, Count Tojal, then Minister for Foreign Affairs, informed Her Majesty's Chargé d'Affaires, by a note dated February 7, 1850, that "the necessary orders were about to be issued to the Commissioners of Loanda, that in the event of an equal number of votes on any question, or in event of a difference of opinion between the two Commissioners, the stipulations of the IVth Article of the Annex B to the Treaty of the 3rd of July, 1842,* be exclusively attended to, the first arbiter named serving to decide any difference of opinion which may arise with reference to the same question."

This being communicated by the Portuguese Government to their Commissioners at Loanda a minute was entered in the book of that Commission, to the effect that, according to the construction of the Slave Trade Treaty taken by Great Britain and Portugal an arbitrator once elected is to be the arbitrator throughout the case in which chosen.

These decisions have been communicated to the Portuguese Commissioners at the Cape. They, however, refuse to alter their former views, unless they receive instructions from Portugal.

In order, therefore, to prevent any further obstruction of business, I have the honour, in compliance with the instructions which I have received from Her Majesty's Principal Secretary of State for Foreign Affairs, to request that your Excellency will give instructions, by the earliest opportunity, to His Most Faithful Majesty's Commissioners at the Cape that they shall be guided by the recorded opinions of both the Governments of Great Britain and Portugal on the point at issue. I avail, &c.

The Duke of Terceira. HENRY F. HOWARD.

No. 114.—*Mr. Howard to Lord J. Russell.*—(*Received August* 12.)

My Lord, *Lisbon, August* 2, 1859.

With reference to my despatch of the 18th of June last to the Earl of Malmesbury, I have the honour to inclose a copy and a translation of a note of the 28th ultimo, which I have received from the Duke of Terceira, acquainting me that instructions, in the sense desired by Her Majesty's Government, are about to be

* Vol. XXX. Page 527.

issued to the Portuguese Commissioners in the Mixed Portuguese and British Commission at the Cape of Good Hope, in respect to the election of an arbitrator in cases of difference arising between him and the British Commissioner.

I have, &c.

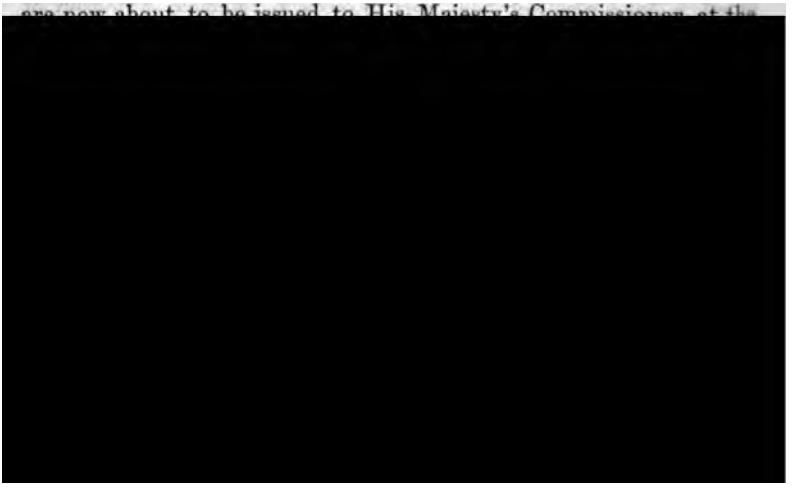
Lord J. Russell. HENRY F. HOWARD.

(*Inclosure.*)—*The Duke of Terceira to Mr. Howard.*

(Translation.) *Palace, July* 28, 1859.

I HAVE before me the note which you were pleased to address to me on the 18th of June last, in which, referring to the difference of opinion which had lately arisen between the Portuguese and British Members of the Mixed Commission established at the Cape of Good Hope, upon the interpretation which ought to be given to Article IV of Annex B to the Treaty of 3rd July, 1842, in that part which treats of the naming of an arbiter to decide upon any difference of opinion between the respective Commissioners you request, in the name of your Government, that instructions be sent to the Portuguese Commissioner in the said Mixed Commission to observe in this case what has already been decided upon between the two Governments of Portugal and of Great Britain.

In reply to your said note I have the honour to state to you that, as in 1850, it was decided, with reference to the Mixed Commission established at Loanda, that, in the event of a casting-vote being required in any decision, or of a difference of opinion between the two Commissioners, the arbiter first appointed in accordance with the said Article IV of Annex B should be the one to decide upon all points in which a difference of opinion might arise having reference to the case under discussion; the necessary instructions



Majesty's Consul at Zanzibar, of a shipment of a cargo of 1,200 slaves in an American vessel under Spanish colours, from a bay a a few miles to the south of Ibo, and repeating your Lordship's observations on the subject of it.

I have likewise called the Duke of Terceira's attention verbally to the subject of my note.

Lord J. Russell. HENRY F. HOWARD.

(*Inclosure.*)—*Mr. Howard to the Duke of Terceira.*

M. LE MINISTRE, *Lisbon, November* 3, 1859.

IN compliance with the instructions which I have received from Her Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to acquaint your Excellency that a despatch has reached Her Majesty's Government from Captain Rigby, Her Majesty's Consul at Zanzibar, reporting that he had received authentic information that on the 24th of August last, a large American ship, under Spanish colours, shipped 1,200 negroes for conveyance to Cuba from a few miles to the south of Ibo, on the east coast of Africa, and that all the boats belonging to Ibo were employed in conveying them to the ship; and also that the Portuguese Governor of Ibo received a fee of 10 dollars for each negro embarked, part of which amount he distributes amongst the various officials of the port.

It further appears from the information received by Captain Rigby that, since the Sultan of Zanzibar has so strongly forbidden the export of slaves from his ports in foreign ships, Ibo is the chief market from which they are shipped, which cannot be done without the connivance of the local Portuguese authorties, and that the abovementioned case of a large shipment is by no means the only one which has taken place within the few last months from that port

The practice observed on such occasions is said to be that slavers call at Ibo and make all the necessary contracts and arrangements with the local agents for receiving cargoes of slaves, stand out to sea again, and afterwards return within a certain period. A point on the coast having been agreed upon, and the slaves and provisions having been collected at the appointed time, the slaveships on their return to Ibo, seldom remain long in port, but ship their slaves and leave the coast a few hours afterwards. The slaves thus shipped are stated to be taken by land about 30 miles south, and shipped in a small bay called Poona. It is described as having a very narrow entrance, and ships inside it cannot be seen by a vessel out at sea.

In thus bringing to the notice of your Excellency the facts reported by Captain Rigby, I am directed by Lord John Russell to state that Her Majesty's Government do not doubt that the

Government of Her Most Faithful Majesty will visit with their severe displeasure those Portuguese officers who, in defiance of the stringent orders of their Government, have been guilty of conniving at the iniquitous traffic in slaves. I avail, &c.

The Duke of Terceira. HENRY F. HOWARD.

No. 125.—*Mr. Howard to Lord J. Russell.*—(*Rec. November* 21.)

My Lord, *Lisbon, November* 16, 1859.

In execution of the instructions contained in your Lordship's despatch of the 31st ultimo, I addressed to the Duke of Terceira, on the 13th instant, the note of which I have the honour to inclose a copy, communicating the substance of Dr. Livingstone's Report, of 4th March last, relative to certain Slave Trade proceedings carried on in the neighbourhood of Quillimane with the connivance of the Portuguese authorities, and representing the evil effects of those operations.

I have this day verbally called the attention of the Duke of Terceira, and of General Ferreri, the Minister of Marine, to this note, as well as to that which I addressed to the Duke on the 3rd instant, relative to a large shipment of negroes from Ibo, and have received from both those Ministers the assurances that they will take every means in their power to prevent the revival of the Slave Trade in the Portuguese African possessions.

I have, &c.

Lord J. Russell. HENRY F. HOWARD.

(*Inclosure.*)—*Mr. Howard to the Duke of Terceira.*

M. le Ministre, *Lisbon, November* 13, 1859.

In my note of the 3rd instant it was my duty to lay before your

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the present year, nevertheless Lord John Russell considers it desirable that His Most Faithful Majesty's Government should be made acquainted with them, as the accounts more recently received by Her Majesty's Government, as communicated in my above-mentioned note of the 3rd instant, shew that Portuguese subjects and Portuguese authorities are still engaged in carrying on the Slave Trade.

In Dr. Livingstone's despatch in question, he reports that about the beginning of October, 1858, an intelligent native pilot informed him that a cargo of slaves had been dispatched a few days before from Massengave or Sangave, a prayo or farm situated in the mouth of the Maindo, a river lying some 15 or 20 miles south of the entrance to Quillimane. The person who shipped them is a Senhor Cruz, a resident in Quillimane, and the owner of the farm. The proceeding had caused considerable uneasiness in the class to which the pilot belonged, namely, the calavos or serfs, for Senhor Cruz has forced his sister-in-law to part with her domestic slaves in payment of a debt, and had exported them. As household slaves and serfs were believed to enjoy the privilege of rarely being sold except for crimes, the above mentioned shipment had raised an alarm, but it was hoped that, through the influence of Major Secard, the example would not be followed up the Zambesi. Information was also obtained from the Portuguese themselves, that Senhor Cruz had made a contract with certain parties in Bourbon, to furnish several hundred slaves, to be exported as free emigrants, at so much per head; but, being aware of the prevailing disposition of the parties to slander each other, Dr. Livingstone says that he had hesitated to report in a despatch the ensuing revival of the slave-hunting in the countries north-west of Quillimane, in order to the fulfilment of the contract, until he could feel positive that the representation might confidently be relied on.

It is now, he proceeds to say, notorious that Senhor Cruz ships cargoes of slaves regularly from the Shaindo, in French vessels, and the merchants at Tette complain that he is so plentifully supplied with money as to be able to purchase up all the goods that come to Quillimane, and that he will not part with them for anything but slaves, or food used in exporting them. These merchants have no chance of selling their ivory except at a ruinously low price, and will probably be forced to bring slaves to Senhor Cruz instead of carrying on lawful commerce.

Senhor Cruz has an active agent for collecting slaves at Shupanza, named Senhor Francisco, and a Portuguese woman left Tette on the 3rd March, 1859, with a cargo of slaves in irons for that depôt. A feint was made to catch her after she had left, but the Governor of Quillimane was conveniently ill at the time, and all

understand the meaning of his connivance in Cruz's dealings too well to hinder them.

Dr. Livingstone observes, that it is painful to witness the infatuation with which the Portuguese again commence the trade which ruined their power and commerce in the region in question; and that it might truly be said that they labour for a trifle and neglect fortunes lying at their feet. He could, he says, rise from his despatch and collect many cartloads of indigo, growing as a weed in the streets of Tette, but that it would all be allowed to rot, or be burned off as a nuisance.

In thus having the honour to communicate the foregoing information, I have been directed by Lord John Russell to represent to His Most Faithful Majesty's Government that these Slave Trade operations, besides depopulating the country, and thereby depriving it of a source of wealth, are perpetuating barbarism in regions which Providence has supplied, with prodigal liberality, with all the means for commerce advantageous to Europe and civilizing to Africa.

I avail, &c.

The Duke of Terceira. HENRY F. HOWARD.

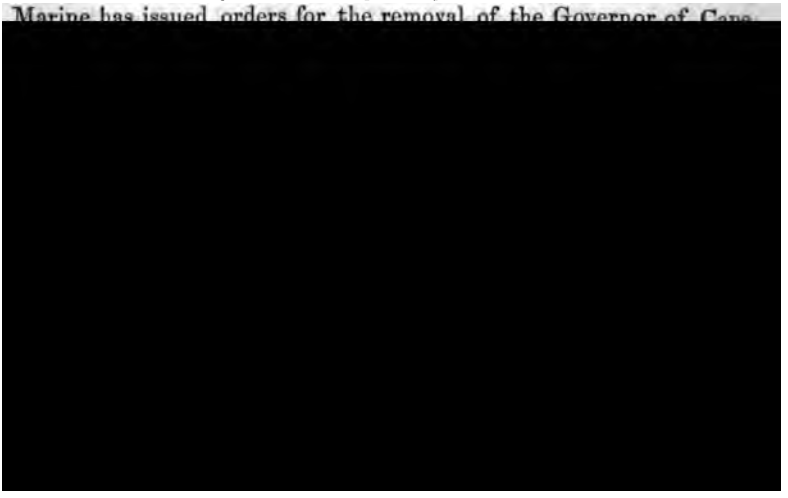
No. 130.—*Mr. Howard to Lord J. Russell.*—(*Rec. December* 22.)

Lisbon, December 14, 1859.

My Lord,

With reference to my despatches of the 6th and of the 16th ultimo, I have the honour to inclose a copy and a translation of a note of the 12th instant, which I have received from the Duke of Terceira, in reply to my notes of the 3rd and 13th of November, relative to a shipment of 1,200 slaves from Ibo to Cuba, and to other Slave Trade operations on the East Coast of Africa.

From this note your Lordship will perceive that the Minister of Marine has issued orders for the removal of the Governor of Cape



the 5th instant, that on the same day the proper orders were issued to the Governor-General of the Province of Mozambique, to cause the First Lieutenant of the Navy, Jeronymo Romero, now Governor of Cape Delgado, to be removed from his governorship, and to substitute him provisionally by some person whose conduct may hold out a guarantee for the faithful discharge of his duties; and also to cause an investigation to be made into the circumstances pointed out in your above-mentioned notes, in order to proceed against such persons as may be found guilty, and to make use of every means in his power to put an end, as His Majesty's Government desire, to any accusations against Portuguese subjects of connivance in the infamous traffic in slaves.

In bringing the above to your knowledge, I avail, &c.

H. F. Howard, Esq. DUKE OF TERCEIRA.

No. 132.—*Lord J. Russell to Sir A. Magenis.*

SIR, *Foreign Office, March* 13, 1860.

I TRANSMIT to you herewith copies of two despatches from Her Majesty's Commissioners at the Cape of Good Hope: one containing their report upon the Slave Trade which has been carried on from the East Coast of Africa during the past year, the other inclosing a letter from Rear-Admiral the Honourable Sir F. Grey, containing information which, corroborated as it has been by reports received by Her Majesty's Government from other sources, leaves no room for doubting the fact that the Slave Trade has been extensively carried on from the Portuguese possessions, and that the Portuguese Governor of Ibo, as well as the authorities on other parts of the coast, have connived at the traffic.

I have to instruct you to communicate copies of Admiral Grey's letter and its inclosure, and also the substance of the Cape Commissioners' despatches to the Portuguese Government, and in doing so you will state that Her Majesty's Government feel assured that the Government of Her Most Faithful Majesty will cause immediate steps to be taken for the investigation of the circumstances reported by Admiral Grey and the Cape Commissioners, with the view to the removal and punishment of those officers who may be proved to have engaged in, or to have connived at, the traffic in slaves.

I am, &c.

Sir A. Magenis. J. RUSSELL.

PORTUGAL (QUILLIMANE).

CONSULAR.

No. 136.—Dr. Livingstone to the Earl of Malmesbury.—(*Rec. Sept. 19.*)
(Extract.) *Tette, March 4, 1859.*

ABOUT the beginning of October last, an intelligent native pilot informed me that a cargo of slaves had been dispatched a few days before from Massangane or Sangane, a "prazo" or farm, situated in the mouth of the Maindo, a river lying some 15 or 30 miles south of the entrance to Quillimane. The person who had shipped them is a Senhor Cruz, a resident in Quillimane, and the owner of the farm. The proceeding had caused considerable uneasiness in the class to which the pilot belonged, namely, the "colonos" or serfs, for Senhor Cruz had forced his sister-in-law to part with her domestic slaves in payment of a debt, and exported them. As household slaves and serfs were believed to enjoy the privilege of rarely being sold, except for crimes, the above shipment had raised an alarm, but it was hoped that through the influence of Major Secard the example would not be followed up the Zambesi.

Information was also obtained from the Portuguese themselves that Cruz had made a contract with certain parties in Bourbon to furnish several hundred slaves to be exported, as "free emigrants," at so much per head, but being aware of the prevailing disposition of the parties to slander each other, I hesitated to report in a despatch to Her Majesty's Government the ensuing revival of the slave-hunting in the countries north-west of Quillimane in order to the fulfilmentof the contract, until I could feel positive that the representation might confidently be relied on.

It is now notorious that Senhor Cruz ships cargoes of slaves regularly from the Maindo in French vessels, and the merchants

[redacted]

Government did not disapprove of this new Slave Trade, they reply —of course it did, but no one knows or cares about what is done in this country except the Viscount de Sá da Bandeira.

It is vexatious to witness the infatuation with which the Portuguese again commence the trade which ruined their power and commerce in this region. It may truly be said that they export their labour for a trifle, and neglect fortunes lying at their feet. I can assure your Lordship that I could rise from this letter, and collect many cart-loads of indigo growing as a weed in the streets of Tette. It will all be allowed to rot or be burned off as a nuisance.

The Earl of Malmesbury. D. LIVINGSTONE.

SPAIN.

No. 139.—*Mr. Buchanan to the Earl of Malmesbury.*—(*Rec. April* 29.)

My Lord, *Madrid, April* 23, 1859.

Don Jose Maria Lago, an agent of the society for the introduction of cotton cultivation into the Island of Cuba, addressed to me some days ago the letter of which a translation and copy are inclosed, accompanied by some samples of Cuba-grown cotton, and requesting me to support a scheme for the immigration of free labourers from the coast of Africa into the island.

I inclose, for your Lordship's information, a translation of my reply, in which I have taken occasion to point out to him, that Her Majesty's Government would not only oppose any attempt to establish a system of emigration from the coast of Africa, as likely to degenerate into a Slave Trade; but that while slavery exists in Cuba it would even be impossible for them to sanction the emigration of free labourers from any of Her Majesty's dominions in the East to that island. I am, &c.

The Earl of Malmesbury. ANDREW BUCHANAN.

(*Inclosure* 1.)—*Señor Lago to Mr. Buchanan.*

Sir, (Translation.) *Madrid, April* 18, 1859.

Having been commissioned to represent at this Court the Company called the "Algodonera de la Isla de Cuba," for whose prosperity your Excellency has evinced so noble and generous an interest, by using your good offices to induce the Spanish Govern- to grant that protection and support which this most important branch of Cuban agriculture deserves, I consider it my duty, in offering you, on behalf of my principals, my most hearty thanks, to bring under your notice the samples of this fine and delicate plant, which have been forwarded to me by the Company,

I avail myself of the occasion thus afforded me of having the honour of addressing your Excellency to inclose to you at the same time a copy of project of free African immigration into Cuba, which was submitted some years ago to the decision of the Government by Don José Suarez Argudin, a proprietor in the island, as well as a note describing the course which the proceedings on this subject have taken hitherto, and their actual position at the present time.

The want of field labourers in Cuba, in consequence of the epidemic diseases which in a short space of time have deprived agriculture of more than 100,000 arms; the unfortunate results which have sprung from the European and Asiatic immigrations attempted since 1848, and the consequent urgent necessity of supplying to the rising cotton cultivation interest the strong arm, which alone is capable in that climate of supporting the severe labour demanded by the preparation of the lands intended for this purpose, have urged the author of the project to seek permission from the Government for the introduction into Cuba of 8,000 or 10,000 free African labourers, with every imaginable guarantee, and without prejudice to carrying out the said project in every point at some future period.

I cannot but call your Excellency's attention to this most interesting subject, which is one of life and death for Cuban agriculture, and more especially for the branch of it relating to cotton, the development of which would be impossible without the powerful element of African labour, and, therefore, I cannot but hope from your great courtesy, that in continuing as hitherto to afford your powerful protection to the interests of the Company, you will assist efficaciously in disposing the Government to decide promptly and favourably the still pending scheme of Suarez Argudin in reference to African labourers.

I have, &c.

A. Buchanan, Esq. JOSE M. LAGO.

(*Inclosure* 2.)—*Mr. Buchanan to Señor Lago.*

SIR, (Translation.) *Madrid, April* 23, 1859.

I HAVE received your letter of the 18th instant, together with the samples which accompanied it of Cuban grown cotton, and in returning them I have much satisfaction in congratulating you on the prospect of that plant increasing before long the prosperity and the commercial importance of Cuba.

With reference, however, to the memorandum and pamphlet inclosed in your letter, and your wish that I should use my influence to promote the establishment of a system of free immigration into Cuba from the coast of Africa, I have to observe that, however much the Government of the Queen my Sovereign may feel interested in the success of the efforts now making to introduce

cotton cultivation into that island, they will not be disposed to encourage it by giving their sanction and support to the views of Don José Suarez Argudin.

The social condition of Africa, and the odious practice of man-stealing which the Slave Trade has established among the people, entirely preclude the hope of any system of emigration from thence being carried on for many years to come, and until a complete change has been effected in the habits and principles of the natives which would not be attended with the abuses of the Slave Trade; and, besides, the existence of slavery in Cuba would be a serious objection in the eyes of Her Majesty's Government to the adoption of such an experiment for the purpose of promoting immigration into that Spanish colony.

Indeed I may observe, that the feelings of Her Majesty's Government are so strong upon this latter point, that though they have learnt with much satisfaction that the Spanish Government are disposed to encourage the introduction of free Chinese colonists into Cuba, they consider the existence of slavery in the island an insurmountable obstacle to their sanctioning the emigration of labourers for that destination from a British colony.

With reference to your remarks on the failure of Chinese labour in Cuba, you will perhaps allow me to observe that the fault may not have lain entirely with the labourer, and that the system of field-labour in the island may have in some degree contributed to render him an unwilling or a useless servant. I have every reason to believe that in British colonies the same complaint of the result of Chinese immigration does not exist. Indeed I am assured that the native of China has proved himself to be a more industrious and willing free field-labourer than the negro, while the money which such men save from their day's earnings, with a view to their eventual return to their own country, is the most satisfactory answer which can be given to those who object to their employment on account of their vices and unprincipled conduct.

I am, &c.

Señor Lago, ANDREW BUCHANAN.

No. 149.—*Mr. Buchanan to the Earl of Malmesbury.*—(*Rec. June* 3.)

SIR, *Madrid, May* 28, 1859.

I HAVE the honour to inclose herewith the copy and translation of a letter from the Minister of Finance to the Director-General of Customs, which has been published in the "Gazette," acquainting him with a Royal Order, that the Xth Article of the Treaty between Great Britain and Spain for the suppression of the Slave Trade shall be included in the Customs' Regulations now in force in the Peninsula, in order that vessels proceeding to the West Coast of

Africa for palm-oil may not, through ignorance, have difficulties in satisfying Her Majesty's cruizers upon the coast as to their being engaged in legal pursuits. I have, &c.

The Earl of Malmesbury. ANDREW BUCHANAN.

(*Inclosure.*)—*The Minister of Finance to the Director-General of Customs.*

(Translation.)

MOST ILLUSTRIOUS SIR, *Madrid, April* 13, 1859.

THE Queen (whom God preserve!) having been acquainted with a communication from the Department of State, in which it is stated, with reference to the Spanish Consul in Sierra Leone, that the Spanish polacre *Joven Jacinta*, from Tarragona, had presented herself in that port, with 50 unmade-up casks for loading palm-oil, but without the document referred to in the Xth Article of the Treaty solemnized with England on the 28th of June, 1835, her captain, Don Simon Alcina, having stated that he was not aware that it was necessary, in order to prevent any difficulty with the cruizers charged with the repression of the Slave Trade, Her Majesty has been pleased to command, in accordance with your proposal, and in order that ignorance may never henceforth be alleged, that the Xth Article of the said Treaty shall be included in the Customs Regulations now in force, in the section of "Exportation to Spanish Possessions;" and that a reply shall be made to the Department of State informing it of this Royal Order, as well as that a copy of the said Article has been circulated to the Custom-Houses of the Peninsula through your Direction-General, charging them to bear it in mind, and to fulfil, and cause to be fulfilled, by the commercial community, the orders therein contained.

Which I mention to you by Royal Order, for your information and guidance. God preserve, &c.

The Director-General of Customs. SALAVERRIA.

No. 151.—*The Earl of Malmesbury to Mr. Buchanan.*

SIR, *Foreign Office, June* 10, 1859.

WITH reference to my despatch of the 13th ultimo, instructing you to make known to the Spanish Government the decease of M. Joaquin de Zugasti, Her Catholic Majesty's Judge in the Mixed Commission Court at Sierra Leone, I regret to have to inform you that, by the packet which arrived this day with the African mails, I have received intelligence of the death of M. de Sanguirico, the Spanish Vice-Consul and Her Catholic Majesty's Acting Judge in the said Court.

I have to instruct you to communicate to the Spanish Government the intelligence of this melancholy event, which leaves Her

Catholic Majesty without a representative in the Mixed Commission Court at Sierra Leone.

I am, &c.

A. Buchanan, Esq. MALMESBURY.

No. 159.—*Mr. Buchanan to Lord J. Russell.*—(*Received August* 30.)

My Lord, *San Ildefonso, August* 24, 1859.

I have the honour to inclose herewith for your Lordship's information the copy and translation of a Royal Order, addressed to the Governor of Fernando Po, instructing him, on the ground that all men are free in countries where slavery is not acknowledged not to deliver up, as claimed by the Governor of the Portuguese possessions of Santo Tomé and the Prince, certain negro slaves who had escaped from thence, and taken refuge in the island.

I have, &c.

Lord J. Russell. ANDREW BUCHANAN.

(*Inclosure.*)—*Royal Order.*

San Ildefonso, August 18, 1859.

With reference to your communication of the 20th of June last, giving account of a request made by the Governor of the Portuguese possessions of Santo Tomé and the Prince, that certain refugee slaves, belonging to various merchants of those possessions, who have sought an asylum in the island of Fernando Po, should be delivered up to him:

Considering that the title of a property in a slave can only be valid in those countries in which the laws recognize the existence of slavery;

Considering that in all countries where slavery is not admitted, all men of whatsoever class, or whencesoever they come, are necessarily reputed as free;

Considering that as the validity of the title which serves as the foundation of this request is not recognized, the request cannot be taken into consideration;

Considering, finally, that in Fernando Po and its dependencies the existence of slavery is not admitted nor recognized in any manner whatever, Her Majesty the Queen has been pleased to dispose that you shall in no case whatsoever accede to claims of the nature of that put forward by the Governor of the Portuguese Islands of Santo Tomé and the Prince.

Which, by Royal Order, I communicate to you for your information and guidance. God preserve, &c.

O'DONNELL.

No. 163.—*Lord J. Russell to Mr. Buchanan.*

SIR, *Foreign Office, September* 26, 1859.

M. ISTURIZ called at this office a few days ago, and stated that he was desired by his Government to declare, with reference to the complaints of Commodore Wise that slavery existed at Fernando Po, that the Spanish Government had not only given positive orders against it, but had also enjoined that if any person should be landed in the island in a state of slavery, he should be set at liberty.

I am, &c.

A. Buchanan, Esq. J. RUSSELL.

No. 166.—*Lord J. Russell to Mr. Buchanan.*

SIR, *Foreign Office, November* 1, 1859.

I TRANSMIT to you herewith copies of despatches from Her Majesty's Acting Consul-General at the Havana, respecting the continued importation of slaves into Cuba.

I have to instruct you to represent to the Spanish Government the several cases specified by Mr. Crawford, and you will say that in regard to such matters the Spanish Government appears entirely to overlook the obligations by which it is bound towards this country.

It is notorious that the slave-dealers bribe the local authorities in Cuba, and it is scarcely too much to assume that, in all probability, every civil officer in Cuba, from the highest to the lowest, is making a fortune out of the misery and degradation of his fellow men.

The Spanish Government, although it has received a large sum of money from Great Britain as the price of its consent to abolish the Slave Trade, is the only Government which openly and notoriously favours that trade, by the countenance which it affords to its colonial authorities, and the facility it suffers them to enjoy for carrying on their malpractices with impunity.

You will read this despatch to Señor Collantes.

I am, &c.

A. Buchanan, Esq. J. RUSSELL.

No. 168.—*Mr. Buchanan to Lord J. Russell.*—(*Rec. December* 9.)

MY LORD, *Madrid, November* 30, 1859.

I HAVE the honour to transmit herewith, for your Lordship's information, the translation of a memorandum, which I have had drawn up in Spanish, from the inclosure in your Lordship's despatch of the 1st instant, which I placed in M. Calderon Collantes' hands some days ago, after calling his Excellency's attention to the more striking proofs which it affords of the extent to which slave-trading is now carried on between Cuba and the coasts of Africa. I also

pointed out more particularly to his Excellency that Her Catholic Majesty's Government were responsible for the impunity with which slave-trading vessels are fitted out in the ports of Cuba, in consequence of the Captain-General being of opinion that the Spanish penal law cannot be applied to them; and for the audacity with which such vessels, protected by papers obtained in Cuba, carry on their detestable traffic under the guns of Her Majesty's cruizers; and I added, that until a remedy was applied to this evil, it would be impossible to expect that Her Majesty's Government would give Her Catholic Majesty's Government credit for doing everything in their power to suppress the trade.

His Excellency replied, that, *prima facie*, it appeared to him that there could be no good reason for not causing the penal law to be enforced against all vessels frequenting the ports of Cuba, and he promised to read the memorandum and to give this part of the subject his serious attention. I then said that, having acquainted him with the facts which had lately come to the knowledge of Her Majesty's Government, I must also, in obedience to my instructions, acquaint him with the impressions which they had made upon them; and, in conformity with your Lordship's directions, I read to him your Lordship's despatch above alluded to.

M. Calderon Collantes endeavoured to defend the Spanish Government and the Captain-General of Cuba, but I said that, until some means were adopted to prevent the constant disembarkation of negroes on the island, and the facility with which "cedulas" were obtained for newly imported slaves, it could not be doubted that the local civil authorities were in league with the slave-traders, and that until efficient measures were taken for the punishment of the guilty, Her Majesty's Government would continue to consider that the Spanish Government sanctioned the daily violation of the obligations which Spain had contracted to Great Britain with respect to the abolition of the Slave Trade. I have, &c.

Lord J. Russell. ANDREW BUCHANAN.

(*Inclosure.*)—*Memorandum.*

THE proceedings of the British squadron on the Coast of Africa during the months of June, July, and August, show the extent to which slaves are being shipped from thence to Cuba.

Commodore Wise reports, on the 27th of August, that on the 13th of June, when in latitude 0° 50′ south, longitude 4° 30′ east, Her Majesty's ship *Viper* proceeded, under steam, to Anabon, passing that island on the night of the 14th. On the following morning, she chased and captured a large brigantine without papers or colours, fully equipped for the Slave Trade, which, being considered unfit for a long passage, was surveyed and burnt.

On the 15th of June, Her Majesty's ship *Antelope* captured a barque 10 miles north of Killongo, of about 250 tons burthen, and without name, colours, or papers. She was fully equipped to receive a cargo of slaves, and was sent to Sierra Leone for adjudication. This vessel was believed to have been once the American barque *Antelope*, but upon capture she was represented to have been formerly the *Amanda and Maria*, the joint property of Ximenes, Martinez, and Lafitte, a wealthy Havana firm connected with Paris and London, and of her Master, Antonio Huerta.

She was consigned to Silva, and the money for the purchase of the slaves had been forwarded to the Congo, *viâ* Liverpool and London.

On the morning of the 4th of July, Commodore Wise boarded, in Banda Point Bay, the celebrated American slaver *Isla de Cuba*, but her papers being perfectly correct, even her coppers, plank, and provisions being entered in her manifest, he was obliged to leave her unmolested.

On the 22nd of July, Her Majesty's ship *Archer* fell in with the slave schooner *Stephen H. Townsend*, and, after watching her movements, captured her on the 26th, her master having destroyed her flag and papers. She was fully equipped for the Slave Trade, and was about to ship 500 slaves from Mayumba, where 1,000 were collected. From information received from this vessel, Mayumba has become a favourite shipping place, and slaves are shipped as far north as Cape Pibras.

On the 9th August, her Majesty's ship *Archer* captured, off Banda Point, a vessel, which proved to be the American barque *Laura*, which cleared from New Orleans. She was fully fitted for the trade, and was despatched, as a prize, to Vera Cruz.



slaves had been recently shipped in the *Brownsville*. Being then closely watched, the *Ottawa* left the river, and proceeded seaward, and 700 slaves, ready for shipment near where she had anchored, were despatched inland. It was supposed the *Ottawa* would try Ambrizette or Moanda.

On the 16th July, Her Majesty's ship *Pluto* chased and captured, off Cabenda Bay, a brig without colours or papers, fully fitted for the trade, said to have been once the Spanish vessel *Esperanza*. She was sent to St. Helena for adjudication.

Commodore Wise further states that, in the last 8 months, 12 certain shipments had occurred, while 6 more are almost certainly known to have taken place, and he had received information of no less than 20 slavers, exclusive of those captured or escaped, which had left for the coast within the last 5 months.

Her Majesty's Consul at Zanzibar reports that, on the 4th August, a large American ship, under Spanish colours, shipped 1,200 negroes, for conveyance to Cuba from a bay a few miles to the south of Ibo.

The reports which Her Majesty's Government receive from the Havana tend equally to prove that no diminution has taken place in the importation of negroes into the Island of Cuba.

On the 5th of September, Mr. Acting Consul-General Crawford reports that he has received information respecting 7 cargoes, or about 4,500 slaves, having been landed during the month of August, in different parts of the island, namely,—At Santa Cruz (Canasi) about 800 Bozals, from a vessel supposed to be the American brig *Brownsville;* at Siguapa, near Cardenas, a cargo of 1,700, from a large American clipper ship, and two cargoes of 310 and 73 negroes respectively in the neighbourhood of Cardenas, of which the former was landed from the Spanish vessel *Reglita*, at Las Pozas, and the latter from a vessel which left the Congo with 1,100 negroes, and lost all except 70, from an epidemic which broke out on the voyage.

An American vessel landed 1,400 slaves on the 15th August, near Sagua. A cargo of about 700 was landed near Bahia Honda, and another of 340 at Santo Espiritu.

From the annexed copies of correspondence between Mr. Crawford and the Captain-General, it would appear that his Excellency had only received information of the cargo of 340 landed at Santo Espiritu, and that he had in consequence removed the Governor and some of the authorities of the district, and that he doubted the landing of 800 at Santa Cruz, as a steamer had been sent to cruize in those waters, in consequence of preparations having been reported to him for a landing there.

Mr. Crawford, however, states that the slaves were landed, not at the Santa Cruz alluded to by his Excellency, which is on the

south side of the island, but at another Santa Cruz, about 25 miles to the windward of Havana.

Mr. Crawford also states that the *Terrible*, which sailed from Puerto Rico with 76 negroes in June last, succeeded in landing them upon the coast of Cuba, but no information has reached the Captain-General on the subject, another proof of the powerful means employed by the slave-traders to insure the silence of the local authorities.

The British Vice-Consul at Cardenas reports that, on the 27th of July, the American brig *Tavernier* was cleared for Fernando Po, it being notorious that she left for a cargo of slaves, her extra water-casks and provisions being embarked, in open day, from the main wharf, under the very eyes of the authorities, the Captain of the port acknowledging that she appeared to be destined for the Slave Trade, but declaring that he had no authority to search her. The same Vice-Consul reports that the American barque *Corinthian* was also being fitted out for Fernando Po, which is become a favourite rendezvous for slavers, from whence they clear for the Havana, when their cargoes are ready for embarkation on the main-land, thus diminishing considerably the risk of condemnation in case of capture.

Her Majesty's Acting Consul-General reports, on the 9th of September, that the *Corinthian*, above-mentioned, had been stranded near Cardenas, and purchased by a company of notorious slave-traders. He also states that on the evening of the 7th September, the Chilian brig *La Mar* sailed from the Havana, cleared from Valparaiso, but in reality bound for a slave voyage. The *La Mar* had been formerly the American brig *W. H. Stewart*, which was sold in the Havana to slave-traders.

Mr. Crawford had also received information that 3 vessels were fitting out in the harbour for the coast of Africa, of which one was said to be the *Nicolasa*, and another the *Angelita*. With reference to the facility with which such vessels are fitted out at the Havana, two letters are annexed which the Captain-General addressed to Mr. Crawford in the month of May last, respecting the American brigs *Lillie Mills* and *W. M. Grotton*, the former of which is mentioned above as being watched by Her Majesty's ship *Triton*, both of which took in all their fittings and provisions at Havana, and were cleared at the Custom-House for St. Paul de Loanda, and the Island of St. Thomas, on the coast of Africa, the Captain-General not considering himself authorized, though aware of their destination, to cause them to be searched and detained, his Excellency being of opinion that the penal law of 1845 is applicable only to Spanish vessels.

Consul-General Crawford having returned to his post, states

that the purchaser of the *W. H. Stewart*, mentioned above, was a certain Don Pablo Calvet, said to be a citizen of Chile, and she obtained the Chilian flag by the authority of the Chilian Consul at the Havana, and sailed under the name of *La Mar*, cleared in ballast for Valparaiso. He also states that the American barque *Pamphylia*, of 240 tons, cleared on the 21st September, in ballast, for Omoa; the American schooner *J. H. Toone*, of 145 tons, cleared in ballast on the 17th September for Ruatan, and that the American brig *Tallulah*, of 195 tons, was sold by its owner, Don A. Orta, an American citizen of New Orleans, to a certain Don Juan Baptista Alexandre, said to be a Mexican citizen, and has obtained Mexican colours from the Consul of the Republic at the Havana.

All these vessels were believed to be engaged in the Slave Trade. Mr. Crawford also expresses his belief in the existence of a joint stock company at the Havana, with a capital of 600,000 dollars, for the purpose of slave-trading. Some of the members being wealthy and influential persons, who arrange for the secret landing of the slaves, and for providing them with "cedulas" and passes for their protection and transit.

No. 170.—*Mr. Buchanan to Lord J. Russell.*—(*Rec. January* 14.)

MY LORD, *Madrid, January* 7, 1860.

WITH reference to the observations in Mr. Consul-General Crawford's despatch of the 27th of last October, of which a copy was transmitted to me in your Lordship's despatch of the 14th ultimo, relative to the abolition of the system of "cedulas" or tickets of protection for slaves, I think it right to state that the measure has been represented to me to have been adopted in consequence of its having been discovered that large quantities of forged cedulas were imported into the Island of Cuba from New York, and distributed among the slave-traders.

I have, &c.

Lord J. Russell. ANDREW BUCHANAN.

No. 174.—*Mr. Buchanan to Lord J. Russell.*—(*Rec. January* 27.)

MY LORD, *Madrid, January* 18, 1860.

WITH reference to my despatch of the 30th November last, I have the honour to transmit herewith translation of a note which I have received from Señor Calderon Collantes, stating that he has forwarded the documents communicated to him on the 2nd of November last to the Colonial Department, "in order that such measures may be taken as the Slave Trade therein referred to between the East Coast of Africa and Cuba may require."

I also inclose the copy of a reply which I have addressed to him

understand the meaning of his connivance in Cruz's dealings too well to hinder them.

Dr. Livingstone observes, that it is painful to witness the infatuation with which the Portuguese again commence the trade which ruined their power and commerce in the region in question; and that it might truly be said that they labour for a trifle and neglect fortunes lying at their feet. He could, he says, rise from his despatch and collect many cartloads of indigo, growing as a weed in the streets of Tette, but that it would all be allowed to rot, or be burned off as a nuisance.

In thus having the honour to communicate the foregoing information, I have been directed by Lord John Russell to represent to His Most Faithful Majesty's Government that these Slave Trade operations, besides depopulating the country, and thereby depriving it of a source of wealth, are perpetuating barbarism in regions which Providence has supplied, with prodigal liberality, with all the means for commerce advantageous to Europe and civilizing to Africa. I avail, &c.

The Duke of Terceira. HENRY F. HOWARD.

No. 130.—*Mr. Howard to Lord J. Russell.*—(*Rec. December* 22.)

My Lord, *Lisbon, December* 14, 1859.

With reference to my despatches of the 6th and of the 16th ultimo, I have the honour to inclose a copy and a translation of a note of the 12th instant, which I have received from the Duke of Terceira, in reply to my notes of the 3rd and 13th of November, relative to a shipment of 1,200 slaves from Ibo to Cuba, and to other Slave Trade operations on the East Coast of Africa.

From this note your Lordship will perceive that the Minister of Marine has issued orders for the removal of the Governor of Cape

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the 5th instant, that on the same day the proper orders were issued to the Governor-General of the Province of Mozambique, to cause the First Lieutenant of the Navy, Jeronymo Romero, now Governor of Cape Delgado, to be removed from his governorship, and to substitute him provisionally by some person whose conduct may hold out a guarantee for the faithful discharge of his duties; and also to cause an investigation to be made into the circumstances pointed out in your above-mentioned notes, in order to proceed against such persons as may be found guilty, and to make use of every means in his power to put an end, as His Majesty's Government desire, to any accusations against Portuguese subjects of connivance in the infamous traffic in slaves.

In bringing the above to your knowledge, I avail, &c.

H. F. Howard, Esq. DUKE OF TERCEIRA.

No. 132.—*Lord J. Russell to Sir A. Magenis.*

SIR, *Foreign Office, March* 13, 1860.

I TRANSMIT to you herewith copies of two despatches from Her Majesty's Commissioners at the Cape of Good Hope: one containing their report upon the Slave Trade which has been carried on from the East Coast of Africa during the past year, the other inclosing a letter from Rear-Admiral the Honourable Sir F. Grey, containing information which, corroborated as it has been by reports received by Her Majesty's Government from other sources, leaves no room for doubting the fact that the Slave Trade has been extensively carried on from the Portuguese possessions, and that the Portuguese Governor of Ibo, as well as the authorities on other parts of the coast, have connived at the traffic.

I have to instruct you to communicate copies of Admiral Grey's letter and its inclosure, and also the substance of the Cape Commissioners' despatches to the Portuguese Government, and in doing so you will state that Her Majesty's Government feel assured that the Government of Her Most Faithful Majesty will cause immediate steps to be taken for the investigation of the circumstances reported by Admiral Grey and the Cape Commissioners, with the view to the removal and punishment of those officers who may be proved to have engaged in, or to have connived at, the traffic in slaves.

I am, &c.

Sir A. Magenis. J. RUSSELL.

understand the meaning of his connivance in Cruz's dealings too well to hinder them.

Dr. Livingstone observes, that it is painful to witness the infatuation with which the Portuguese again commence the trade which ruined their power and commerce in the region in question; and that it might truly be said that they labour for a trifle and neglect fortunes lying at their feet. He could, he says, rise from his despatch and collect many cartloads of indigo, growing as a weed in the streets of Tette, but that it would all be allowed to rot, or be burned off as a nuisance.

In thus having the honour to communicate the foregoing information, I have been directed by Lord John Russell to represent to His Most Faithful Majesty's Government that these Slave Trade operations, besides depopulating the country, and thereby depriving it of a source of wealth, are perpetuating barbarism in regions which Providence has supplied, with prodigal liberality, with all the means for commerce advantageous to Europe and civilizing to Africa. I avail, &c.

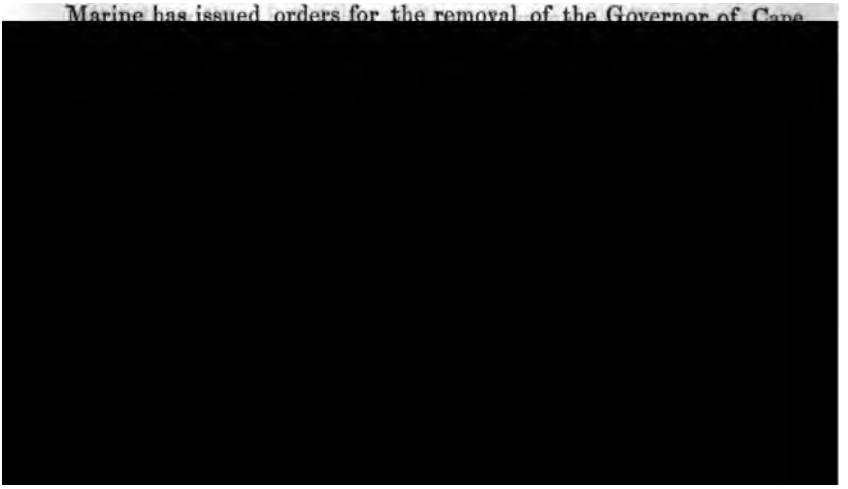
The Duke of Terceira. HENRY F. HOWARD.

No. 130.—*Mr. Howard to Lord J. Russell.*—(*Rec. December* 22.)

My Lord, *Lisbon, December* 14, 1859.

With reference to my despatches of the 6th and of the 16th ultimo, I have the honour to inclose a copy and a translation of a note of the 12th instant, which I have received from the Duke of Terceira, in reply to my notes of the 3rd and 13th of November, relative to a shipment of 1,200 slaves from Ibo to Cuba, and to other Slave Trade operations on the East Coast of Africa.

From this note your Lordship will perceive that the Minister of Marine has issued orders for the removal of the Governor of Cape



the 5th instant, that on the same day the proper orders were issued to the Governor-General of the Province of Mozambique, to cause the First Lieutenant of the Navy, Jeronymo Romero, now Governor of Cape Delgado, to be removed from his governorship, and to substitute him provisionally by some person whose conduct may hold out a guarantee for the faithful discharge of his duties; and also to cause an investigation to be made into the circumstances pointed out in your above-mentioned notes, in order to proceed against such persons as may be found guilty, and to make use of every means in his power to put an end, as His Majesty's Government desire, to any accusations against Portuguese subjects of connivance in the infamous traffic in slaves.

In bringing the above to your knowledge, I avail, &c.

H. F. Howard, Esq. DUKE OF TERCEIRA.

No. 132.—*Lord J. Russell to Sir A. Magenis.*

SIR, *Foreign Office, March* 13, 1860.

I TRANSMIT to you herewith copies of two despatches from Her Majesty's Commissioners at the Cape of Good Hope: one containing their report upon the Slave Trade which has been carried on from the East Coast of Africa during the past year, the other inclosing a letter from Rear-Admiral the Honourable Sir F. Grey, containing information which, corroborated as it has been by reports received by Her Majesty's Government from other sources, leaves no room for doubting the fact that the Slave Trade has been extensively carried on from the Portuguese possessions, and that the Portuguese Governor of Ibo, as well as the authorities on other parts of the coast, have connived at the traffic.

I have to instruct you to communicate copies of Admiral Grey's letter and its inclosure, and also the substance of the Cape Commissioners' despatches to the Portuguese Government, and in doing so you will state that Her Majesty's Government feel assured that the Government of Her Most Faithful Majesty will cause immediate steps to be taken for the investigation of the circumstances reported by Admiral Grey and the Cape Commissioners, with the view to the removal and punishment of those officers who may be proved to have engaged in, or to have connived at, the traffic in slaves.

I am, &c.

Sir A. Magenis. J. RUSSELL.

there is, at present, hardly any room for interference; but I beg to assure your Lordship that my vigilance is not diminished, and I shall not fail to interpose my preventive representations upon any well-authenticated symptoms of a revival of those iniquitous and oppressive measures, which are a disgrace to the whole inhabitants of Yucatan. I have, &c.

The Earl of Malmesbury. JOS. T. CRAWFORD.

No. 214.—*Consul-General Crawford to Lord J. Russell.*—(*Rec. Dec.* 2.)

(Extract.) *Havana, October* 27, 1859.

I HAVE the honour of inclosing herewith to your Lordship, a translation of a Decree which has just been promulgated by General Concha, doing away with the cedulas or tickets of protection for slaves in this island, a measure adopted in the year 1854, and which it was supposed would have operated as a full and accurate registry, but which, owing to its mal-administration, was converted into a means (extensively had recourse to) for protecting newly-landed slaves, the sale of said cedulas serving only the purposes of the slave-traders.

There has never been any statement published by the Government of Cuba that went to show any greater number of slaves in this island who, being protected by cedulas, may have been said to be registered, than 374,806, which was probably about half the number of that unfortunate class of persons; and General Concha must have known, ever since the statements were published, which are referred to in the Slave Papers, Class A, page 18, 1856-57, that the issue of cedulas was of no use whatever as a registration.

But the almost unlimited abuse of the issue of those tickets of protection which have been used by the slave-traders has greatly facilitated the introduction of Bozals during the last four years that the traffic has so much increased and has become so flourishing, so that the holders of such immense numbers of newly imported negroes were uneasy, lest the corrupt system, I have so often denounced should be corrected, and the law of registry be honestly administered, which would affect their property; moreover, there must be considerable numbers of recently imported negroes, unprotected by cedulas, who had to be kept concealed, and so this sweeping measure has been devised of doing away with them altogether and reverting to the old system, authorizing the Governors, Lieutenant-Governors, and Captains of Districts, to give passes for the transit of slaves as formerly.

I need not point out to the superior intelligence of your Lordship, that all the negroes, no matter how introduced (and my other despatches show how numerous they have been of late), are now safe, and that the slave-traders, up to the present time, are secure,

and as their profits are enormous, there appears to be no check to the extension of their adventures, they are daily becoming more numerous and influential here and elsewhere in the island.

Lord J. Russell. JOS. T. CRAWFORD.

(*Inclosure.*)—*Decree.*

(Translation.) *Havana, October* 25, 1859.

THE dispositions which this supreme Civil Government has, from time to time, issued since the year 1854, in order to establish and organize the registration of slaves, and to put a stop to the abuses arising from the facility of the forgery of the cedulas created for that purpose under the Decree of 19th December of that year, have not produced the desired results. Experience having therefore shown the necessity of modifying those dispositions, meanwhile Her Majesty's Government comes to a determination respecting the definite suppression of said documents, establishing the form in which the registry of slaves is to be carried out, without the necessity of individual cedulas as they are at present provided with (the renewal of which, for the ensuing year, will not be effected until the said sovereign resolution is made known), and considering that these documents, as declared by the Resolution of 23rd March, 1857, should never have been looked upon as proof of the legitimate ownership of slaves, I have thought proper to decree—

1. The Governors and Lieutenant-Governors, the Captains of Districts, the Employés of Police, the Civil Guard, and the other public functionaries, who are directly charged with the maintenance of order and the enforcement of the dispositions of the Government, shall desist, in future, from requiring the exhibition of the tickets of protection of slaves under any of the circumstances in which this formality was called for by the dispositions in force up to this date.

2. The dispositions contained in the Instruction of 8th April, 1849, for regulating the removal of slaves from place to place in the island, are re-established. In consequence thereof, the proprietors or their agents, should for this purpose, provide themselves with the necessary transit licences or passes at the corresponding Government offices, under the forms prescribed in the said Instruction.

JOSE DE LA CONCHA.

No. 237.—*Consul-General Crawford to Lord J. Russell.*—(*Rec. Mar.* 31.)

(Extract.) *Havana, February* 24, 1860.

I HAVE the honour of acknowledging the receipt of your Lordship's despatch dated the 31st ultimo, in which, with reference to mine of the 27th of October last, your Lordship transmits to me a copy of a despatch from Mr. Buchanan, Her Majesty's Minister at

Madrid, relative to the reasons alleged for the abolition of the system of cedulas in this island.

The system of cedulas, fully and honestly carried into operation, would necessarily have been a complete registry of the slaves, and therefore a means, if the Government had such wish or intention, for putting an end to the Slave Trade; since, had all the slaves been at once furnished with cedulas, there could have been no more issued, excepting to slave-born children, whose births ought also to have been authenticated by the proof of registry before issuing their corresponding cedulas. Had that system been fairly, fully, and honestly carried into operation, there would have been no demand for false cedulas, and none would have been fabricated, but the system was not enforced; the greatest number issued by this Government was 374,000, probably less than two-thirds of the number of slaves in the island. That laxity gave room for cedulas being constantly wanted, not by the owners of slaves who had neglected to take out that protection for their working hands, but by the slave-traders, and as falsified cedulas cost them less than they could be obtained for their purposes from the Government officers, it is quite true that those documents were made and sent here in considerable numbers, a fact that must have been known to the Government, however, long before the cedulas were abolished.

The Government also must have known that, not only the falsified cedulas, but those in which some of their own officers had traded so lucratively, had availed the traders for the introduction of great numbers of slaves; nay more, it had been decided by the Royal Audencia, that the seizure of slaves, whose masters claimed them on falsified cedulas, could not be sustained, and the seized slaves were restored upon the principle that "the masters obtained the falsified cedulas, believing them to have been genuine," by such decision showing the uselessness and iniquity of the whole system of cedulas.

Lord J. Russell. JOS. T. CRAWFORD.

TRIPOLI.

CONSULAR.

No. 250.—*Consul-General Herman to Lord J. Russell.*—(*Rec. Dec.* 30.)

MY LORD, *Tripoli, December* 7, 1859.

I HAVE the honour to report to your Lordship that some 18 or 20 months ago, a Tunisian, named Sheik Omar el Shenany, arrived at Ghadames from Tunis, with the avowed object of proceeding to the interior for the purchase of slaves.

Although warned by the authorities that the Slave Trade was abolished, he nevertheless persisted in his design, and some time after returned to Ghadames with 24 slaves.

On this flagrant audacity being reported to the late Governor-General, Osman Pasha, he immediately transmitted orders to send down Omar el Shenauny to Tripoli under close arrest, and to manumit the slaves. On the line of March, however, the Turkish escort was attacked and overpowered by a party of El Shenauny's friends, and himself rescued.

Notwithstanding this, some two months ago this man returned from Tunis to Tripoli, and established his quarters at the residence of the Tunisian Consular Agent. After a short sojourn, he left clandestinely for Ghadames; and on arrival there, through the culpable connivance of the local authorities—despite the energetic remonstrances of Her Majesty's Vice-Consul, Mr. Freeman—he was permitted to leave the town with 18 of the original party of slaves, and to move upon the Tunisian frontier.

On my reporting this affair to the Governor-General, he first dispatched a detachment of cavalry to intercept the fugitives; secondly, reported the matter to his agent at Tunis; and, thirdly, sent orders to send down under arrest to Tripoli, three or four individuals denounced by Mr. Freeman for their complicity in El Shenauny's operation. On their arrival here, they were for some time confined in the public prison, and would have been made a further example of, but for the intercession of Mr. Freeman. The Mudir of Ghadames will be superseded, and the Medjlis entirely reorganized. And, lastly, I yesterday received a despatch from Her Majesty's Agent and Consul-General at Tunis, to whom I also wrote on the subject, reporting that, upon his representation, His Highness the Bey of Tunis had caused El Shenauny to be arrested, and had manumitted the 18 negresses.

Throughout this affair, the conduct of his Excellency the Governor-General has been marked by energetic promptness and extreme good faith; but so enormous are now the profits realized by the slave-dealers, that, independent of other causes, no measure of example or of punishment will, I fear, for a length of time to come, arrest the Traffic in Slaves. Only last night, I received a despatch from Her Majesty's Vice-Consul at Mourzouk, reporting that a caravan of 150 slaves had left Ghat for the district of Bengasi or Egypt. The last-named country I deem to be the most probable direction of their march, where an extended line of frontier renders the contraband introduction of slaves an operation of perfect impunity.

I have, &c.

Lord J. Russell. G. F. HERMAN.

TURKEY.

No. 252.—Sir H. Bulwer to the Earl of Malmesbury.—(Rec. July 6.)

MY LORD, *Constantinople, June 23, 1859.*

WITH reference to your Lordship's despatch of the 18th of April last, I have the honour to inclose herewith a translation of a Vizirial letter, directing the Pasha of Jeddah to use his best exertions to put a stop to the Slave Trade in the Red Sea. The original of that letter has been transmitted by me to Her Majesty's Vice-Consul at Jeddah for delivery to the Pasha.

I have, &c.

The Earl of Malmesbury. HENRY L. BULWER.

(Inclosure.)—Vizirial Letter to the Governor of Jeddah.

(Translation.) *June 21, 1859.*

SOME reports have been received to the effect that the Slave Trade has just now been revived at Massowah.

As your Excellency is well aware, the importation of slaves into the Ottoman dominions from Nigritia and Abyssinia, and their traffic, has been forbidden. It is therefore necessary to persist in the execution of the orders contained in the firmans and instructions sent everywhere on this subject some time ago. Massowah being the outport for slaves brought from the interior, your Excellency is requested to issue stringent orders to the functionaries of the Ottoman Government in those parts, bidding them to adopt the necessary measures for preventing the importation of slaves thereto, and their exportation therefrom.

The Governor of Jeddah. MEHEMED EMIN AALI.

No. 253.—Lord J. Russell to Sir H. Bulwer.

SIR, *Foreign Office, July 23, 1859.*

I HAVE received your Excellency's despatch of the 23rd ultimo, addressed to the Earl of Malmesbury, inclosing a translation of a Vizirial letter addressed by the Turkish Government to the Pasha of Jeddah, instructing him to use his best exertions to put a stop to the Slave Trade in the Red Sea; and I have to acquaint your Excellency that I approve of your having transmitted the original of that letter to the British Vice-Consul at Jeddah for delivery to the Pasha.

I have, however, to remind your Excellency that no report has yet been received from you of the steps which you may have taken in execution of the instructions contained in Lord Malmesbury's despatches of the 30th November, 1858, and of the 18th of April last, by which you were directed to demand the dismissal of the

Governor of Massowah, on account of the threats held out by him to the British Vice-Consul at that place.

However strong may be the Mussulman feeling in some of the Turkish provinces in favour of the Slave Trade, the threat of a Turkish Governor to repeat the horrors of Jeddah, and to join in the massacre of Christians, because a British officer used his best exertions to put a stop to the sale of slaves, is a matter of too great importance to be allowed to pass with impunity.

I have accordingly to desire that your Excellency will explain to me what steps you have taken to procure the dismissal of the Governor of Massowah, and that you will transmit to me copies of any communications on the subject which may have passed between you and the Turkish Government; and if the Governor should not yet have been removed from his post, your Excellency will lose no time in repeating the demand for his dismissal.

I am, &c.

Sir H. Bulwer. J. RUSSELL.

No. 254.—Sir H. Bulwer to Lord J. Russell.—(Rec. August 28.)

My Lord, *Therapia, August 16, 1859.*

With reference to your Lordship's despatch relative to the dismissal of the Kaimakam of Massowah, I have the honour to state that the contents of Lord Malmesbury's despatches alluded to by your Lordship were communicated by me to the Porte, a mode of dealing with it which I have generally found most effectual, and, whilst I obtained a Vizirial letter giving rigid and renewed instructions relative to the suppression of the Slave Trade at Massowah, I understood that the conduct of the Kaimakam at that place would be properly inquired into, and that, unless he could satisfactorily clear himself of the charges brought against him, he would be dismissed.

As far as I can learn, it would appear that the Kaimakam's version of the remarks made by him is somewhat different from that given by Her Majesty's Consular Agent, inasmuch as he appears to say, that all he desired to convey to that Agent was the necessity of a certain degree of caution in his proceedings, since a revolt might otherwise suddenly be provoked which he would not be able to repress. But it does not, on the whole, seem to me that the inquiries that have been made clear up the matter, or that the Kaimakam in question has been duly dealt with; nor am I entirely satisfied with the draft of an instruction which Fuad Pasha proposed to have now addressed to the Pasha at Jeddah on the subject, since, in ordering the strictest examination into the conduct of the functionary against whom an accusation is brought, he does not state that the accused party shall be at once removed or suspended,

but that a report should be made here giving a result of the examination. I have thought it desirable, therefore, to insist peremptorily on the removal of the Kaimakam in the first instance, who should be summoned to Constantinople, there to account for his conduct, since this will be the best means of striking terror into persons similarly situated, by removing them from the sphere of those influences by which they are now affected, and by which they imagine that their conduct will be protected.

I have, &c.

Lord J. Russell. HENRY L. BULWER.

No. 255.—Sir H. Bulwer to Lord J. Russell.—(Rec. September 2.)

My Lord, *Therapia, August 24, 1859.*

The Porte consents to summon at once the Kaimakam of Massowah to Constantinople to explain and answer for his conduct.

In agreeing, however, to my proposal, the Ottoman Ministers have requested me to place upon record that this compliance on the part of the Porte is not to serve as a precedent in future, because we ourselves should not approve of the Porte condemning or dismissing its functionaries without first hearing what they have to state in their defence. I have, &c.

Lord J. Russell. HENRY L. BULWER.

No. 256.—Sir H. Bulwer to Lord J. Russell.—(Rec. November 19.)

My Lord, *Dardanelles, November 9, 1859.*

Having been informed by Her Majesty's Acting Consul at Salonica that a party of negroes and negresses had arrived at that port in the Ottoman steamer *Baroness Tecco* from Tripoli, and that suspicions were entertained of their being furnished with forged papers of manumission, I took the opportunity of calling upon the Porte to repeat its orders in peremptory terms, and to put a stop, once for all, to this infamous traffic.

Translations of the Vizirial letters which, at my request, have been forwarded to the Governors of Tripoli and Salonica, respectively, are inclosed herewith for your Lordship's information.

I have, &c.

Lord J. Russell. HENRY L. BULWER.

(Inclosure 1.)—Vizirial Letter to the Governor-General of Tripoli in the West.

(Translation.) *October 19, 1859.*

It has been heard that a party of negro slaves have lately reached Salonica from Tripoli by the steamer *Baroness Tecco*, under the Ottoman flag.

The conveyance of and traffic in negro slaves having, as I need not tell you, been positively forbidden, by His Majesty's order, in His Majesty's dominions, nothing will be allowed to take place in violation of this order, and when such things do occur, the provisions of the prohibition are immediately enforced. But the complete enforcement and maintenance of this order can only be attained by putting a stop to this illicit traffic at its very source, that is, by adopting effectual measures for preventing the exportation of a single negro slave, male or female, from those parts.

You will, with your usual sagacity and knowledge, renew and enforce afresh the provisions of the above prohibition in the places placed under your jurisdiction, and adopt some permanent mode for preventing, in future, the transport and exportation of such negro slaves, and you will put it in practice.

But it is moreover reported, that these negroes are carried away and made to pass as free persons. It would not be becoming to prevent the circulation, in the interior of His Majesty's province, of persons of free condition, so that, if they are really free, nothing can be said to them; but as it is probable that these persons may, in the first instance, be designated as free, and then sold as slaves to this person and to that person, it will be necessary to be constantly on the look-out to ascertain whether such negroes as are about to be sent away from there are free or not. You will, therefore, establish it as a rule, and in fact, as the sole method of putting a stop to this evil, that an inquiry is to be instituted and proof to be adduced before the Mehkeme and Medjlis as to the freedom of every negro or negress to be carried away from thence, and the "teskeré" to be given them is to be filled up accordingly.

(*Inclosure* 2.)—*Vizirial Letter to the Pasha of Salonica.*

(Translation.) *October* 19, 1859.

It has been heard that a party of negro slaves has recently come from Tripoli to Salonica by the steamer *Baroness Tecco*, under Ottoman colours. The transport of, and trade in, negro slaves being, as I need not tell you, positively forbidden in His Majesty's dominions, nothing will be allowed to take place in defiance of this prohibition; and when such acts do occur, the provisions of the prohibition will be immediately enforced. But, nevertheless, the most effectual mode of enforcing this measure is the prevention of this illicit traffic at its very source; that is, the adoption of measures for preventing the exportation from Tripoli of a single negro, male or female.

You will, therefore, with your acknowledged sagacity and discernment, institute a minute inquiry as to where the slaves conveyed

by that steamer have come from, and in what capacity they were thus conveyed. Should they have been really brought thither as slaves, and for the purposes of sale, you will proclaim their liberty and see that they are allowed to use it, affording them the necessary assistance for (suitable) quarters.

It is moreover reported that these slaves are free persons in reality. Even if this report is correct, it is still necessary to practise towards them the rites of humanity: so that, even if free, you will provide for their comfort, as far as possible, at the hands of Government.

No. 257.—Lord J. Russell to Sir H. Bulwer.

SIR, *Foreign Office, November* 26, 1859.

WITH reference to your Excellency's despatch of the 9th instant, I have to acquaint your Excellency that I approve of your having called upon the Porte to repeat, in peremptory terms, the orders which have been for some time past in force, prohibiting the traffic in negro slaves from the ports of Tripoli.

I have, however, to observe, that if, as appears to be the case, this traffic still continues, it exists rather from the omission of the Turkish Government to punish the offending parties than from the want of stringent orders for its repression; and I have to instruct your Excellency to take an opportunity of pointing this out to the Turkish Government.

I am, &c.

Sir H. Bulwer. J. RUSSELL.

TURKEY (EGYPT).

CONSULAR.

No. 258.—Consul-General Colquhoun to Lord J. Russell.

(*Received January* 13.)

MY LORD, *Cairo, January* 3, 1860.

IN consequence of a despatch received a few days ago from Her Majesty's Consul-General at Tripoli, I have addressed the note, of which copy is inclosed, to his Excellency Cherif Pasha, our Foreign Minister, requiring the Viceroy's Government to take energetic measures to prevent the entrance into Egypt of the caravan of slaves alluded to in Major Herman's despatch.

I have, &c.

Lord J. Russell. ROBERT G. COLQUHOUN.

(*Inclosure.*)—*Consul-General Colquhoun to Cherif Pasha.*

M. LE MINISTRE, *Le Caire, le 2 Janvier*, 1860.

JE crois de mon devoir de porter à la connaissance du Gouvernement de Son Altesse le Viceroi, que je viens de recevoir une dépêche de l'Agent et Consul-Général de Sa Majesté à Tripoli, m'annonçant qu'une caravane conduisant 150 esclaves est partie de Ghat, sa destination étant ou le districte de Bengazi ou l'Egypte. On a lieu à croire que c'est pour ce dernier, car sa ligne étendue de frontière rend très facile le passage en Egypte, par contrebande, des esclaves.

Le Gouverneur-Général de Tripoli a pris des mesures énergiques en envoyant un fort détachement de cavalerie pour couper la marche à cette caravane, et j'espère que le Gouvernement éclairé de Son Altesse ne manquera pas de son côté de faire tout son possible pour seconder les efforts du Gouvernement de Tripoli, et faire avorter un attentat de renouveller l'odieux traffic en chair humaine. Je prie, &c.

Cherif Pasha. ROBERT G. COLQUHOUN.

UNITED STATES.

No. 263.—The Earl of Malmesbury to Lord Lyons.

(Extract.) *Foreign Office, May 6*, 1859.

I TRANSMIT to your Lordship herewith a copy of a despatch from Her Majesty's Judge in the Mixed Commission Court at Sierra Leone, containing a Report upon the Slave Trade on the West Coast of Africa during the past year.

I also inclose extracts of a Report on the same subject from Commodore Wise.

It will be seen from these Reports that the Slave Trade continues to be extensively carried on on the African coast, and almost exclusively by vessels sailing under the American flag, and provided with genuine American papers.

It moreover appears that while the American flag is made to cover a traffic which is declared to be piracy by the laws of The United States, and American citizens engage in it almost with impunity, the squadron or naval force of vessels of suitable numbers and descriptions to carry in all not less than 80 guns, which The United States are bound by Treaty to maintain on the African coast for the suppression of the Slave Trade, is practically reduced to one sailing-vessel of 20 guns.

Commodore Wise, in his report to Rear-Admiral the Honourable

Sir F. Grey, the Commander-in-chief of Her Majesty's naval forces on the African Station, states as follows:

"Although American men-of-war on this station have acted with considerable energy during the last few months, yet their services can be of no small avail when, as you are aware, the disposition of the squadron may be stated as follows:—*Cumberland* (flag), 24 guns, visits the coasts for a few weeks, generally twice a-year; the *St. Louis*, 20 guns, has never visited the coast, to my knowledge, since July, 1857. The actual cruizing is divided between the *Marion*, 16 guns, and the *Vincennes*, 20 guns; but for want of a depôt of provisions at any other place than Porto Praya, within a few weeks after either of these vessels reaches St. Paul de Loanda, she is obliged to return for provisions to Porto Praya; and as both vessels are seldom on the coast together, The United States' squadron of 80 guns is reduced to one sailing-corvette of 20 guns, present about 9 months of the year. Their efforts to prevent the prostitution of their flag must therefore be unsuccessful."

This statement is corroborated, also, by reports received from other official sources, and Her Majesty's Government do not doubt that if The United States' Government will call upon the Commander of their squadron on the African coast for a Return of the number of days the vessels under his orders have been actually employed in cruizing off the coast of Africa, it will at once be seen how inadequate have been the means employed to prevent the American flag from being used to cover a traffic which the Government of The United States has solemnly repudiated.

Nor can it, in justice, be stated that there has been any exaggeration in the extent to which The United States' flag has been used to cover the Slave Trade.

Besides the numerous vessels which have been captured during the past year by Her Majesty's cruizers, the following vessels, sailing under American colours, and, it is believed, furnished with genuine American papers, are known also to have escaped with cargoes of slaves: the *Merchant*, *Telegraph*, *Wm. Montague*, *Blooming Youth*, *Trovador*, *Charlotte*, *Ellen*, *Venus*, *Wanderer*; and to these may be added the several vessels taken by United States' ships of war.

At the present moment Her Majesty's Government are in possession of information showing that not less than 15 vessels, sailing under the American flag, and destined to be engaged in the Slave Trade, have either recently sailed or are about to sail from American and Cuban ports, and although several of these vessels are known to have been sold to the Cuban slave-traders, they still retain their American colours, and are furnished with American papers.

I have to instruct your Lordship to bring to the notice of The

United States' Government the state of things which I have above depicted; and you will express the hope of Her Majesty's Government that the measures proposed by the President for placing small steam-vessels on the coast of Africa, may, without loss of time, be carried into effect.

Lord Lyons. MALMESBURY.

No. 265.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec. May* 16.)

(Extract.) *Washington, April* 30, 1859.

I HAVE the honour to report that General Cass told me this morning that the orders had been already issued for the departure of two steam-vessels for the Coast of Africa; indeed, that one (the *San Jacinto*) had, he believed, already sailed. He added that three steam-vessels would (as he had before told me), be sent to the neighbourhood of Cuba, so soon as the return of the squadron from Paraguay should place vessels of that description at the disposal of the Navy Department.

The Earl of Malmesbury. LYONS.

No. 269.—*Lord Lyons to the Earl of Malmesbury.*—(*Rec June* 20.)

(Extract.) *Washington, June* 7, 1859.

THE inclosed circular, requesting masters of American vessels to display their colours whenever they meet a ship-of-war at sea, has been issued by the Treasury Department to the Collectors of Customs, and has been published in several newspapers. It has not been communicated to me by the State Department, but I have ascertained that it is authentic.

The Earl of Malmesbury. LYONS.

(*Inclosure.*)—*Circular directing United States' Merchant Vessels to show their Colours.*

Washington, May 26, 1859.

THE Secretary of the Treasury has prepared a circular, addressed to the Collectors of Customs, saying: "The immunity of our merchant-vessels at sea from seizure, search, detention, or visit, in time of peace, by the vessels of war of any foreign nation, being now admitted by all the maritime Powers of the world, it is very desirable that the nationality of our vessels should always be promptly displayed in the presence of a ship-of-war. The Secretary of the Treasury is directed by the President to instruct Collectors of the Customs to request the captains in the merchant service, at their respective ports, always to display their colours as promptly as possible, whenever they meet upon the ocean an armed cruizer of any nation."

No. 271.—Lord J. Russell to Lord Lyons.

(Extract.) *Foreign Office, July 8, 1859.*

THE archives of your Lordship's mission will furnish evidence of the repeated instances in which Her Majesty's Government have, with regret, found themselves compelled to call attention to the fraudulent use of the American flag for Slave Trade purposes.

This abuse, as your Lordship is aware, is no longer confined to hoisting The United States' ensign, but is systematically covered by the production of ships' papers, which, although originally genuine when the vessel sailed from The United States, are, in reality fraudulent when produced on the Coast of Africa, in consequence of transfers which have taken place in the interval.

Such a system might at once be checked by the active interference of United States' cruizers; but owing to the insufficiency of the squadron now maintained, this interference cannot be effectively carried out, and the Slave Trade is consequently increasing to an alarming extent.

A striking instance of this is shown in a despatch from Her Majesty's Commissioner at Loanda, of which I herewith transmit to you a copy. Your Lordship will read that despatch to General Cass, calling his Excellency's particular attention to the latter part of it, which shows that notwithstanding that Mr. Gabriel has pointed out to American officers that the River Congo is the great slave-mart to which American vessels resort, no cruizer of The United States has entered that river for 6 months.

Lord Lyons. J. RUSSELL.

No. 278.—Lord J. Russell to Lord Lyons.

(Extract.) *Foreign Office, July 29, 1859.*

I HAVE to instruct your Lordship to call the attention of General Cass to the fact that the Slave Trade is very greatly increasing, and that it is carried on almost entirely under The United States' flag; information having reached Her Majesty's Government of between 50 and 60 vessels having left The United States' and Cuban ports within the last few months for the purpose of engaging in this traffic.

Her Majesty's Government do not suppose that this trade is carried on in order to supply the Southern States with slaves, but as a profitable traffic by unprincipled men. The price of a slave in Cuba is often from 800 to 1,000 dollars, and Spanish agents often receive as much as from 8,000 to 10,000 dollars for their connivance at the landing of a single cargo of slaves.

No representations made to the Spanish Government are of any avail to check the corruption and venality which prevail among their magistrates and agents, high and low, in Cuba.

This state of things is very serious. The natural susceptibilities

of The United States in regard to their flag, and the strict rules of international law, prevent any effectual interference with the Slave Trade by British cruizers in the case of American ventures. But so much the more it behoves The United States' Government to take effectual means to save the honour of their flag from this abuse of its immunity.

It appears, moreover, from accounts recently received by Her Majesty's Government from the African coast, that slavers under the American flag are enabled to carry on their nefarious traffic, even in the presence of United States' cruizers, owing to the omission in the laws of The United States, or in the instructions furnished to American cruizers, of provisions to define what constitute the fittings of a slave-vessel, and I have to instruct your Lordship to bring this defect to the notice of The United States' Government.

I need not tell your Lordship that we do not in any way question the zeal and sincerity of The United States' Government in this matter.

Lord Lyons. J. RUSSELL.

No. 279.—*Lord Lyons to Lord J. Russell.*—(*Received August* 1.)

(Extract.) *Washington, July* 19, 1859.

I HAVE the honour to transmit to your Lordship copies of a note addressed to me by General Cass, and of a paper inclosed in it which contains an extract from instructions given by the Secretary of the Navy to the officer appointed to command The United States' squadron on the coast of Africa.

Lord J. Russell. LYONS.

(*Inclosure* 1.)—*General Cass to Lord Lyons.*

MY LORD, *Washington, July* 18, 1859.

I HAVE the honour to transmit to you herewith, for the information of Her Britannic Majesty's Government, extracts from the instructions of the 6th instant, given by the Navy Department to Captain William Inman, appointed to command the squadron of The United States on the African Station.

Lord Lyons. LEW. CASS.

(*Inclosure* 2.)—*Mr. Toucey to Captain Inman.*

(Extract.) *July* 6, 1859.

IN regard to your duties in suppressing the Slave Trade, the following views are stated for your guidance.

The United States are sincerely desirous wholly to suppress the traffic, and with that view have declared it piracy. They have by their Treaty with England come under specific stipulations upon the subject, to which your particular attention is called.

The object which the two Governments have in view, and the mode in which they propose to accomplish it, will at once be perceived from the plain language of the English Article of the Treaty.

I need not impress upon you the importance of strictly observing this stipulation, and preserving inviolate the pledged faith of your country upon this point. Nevertheless the following suggestions may be found useful in enabling you to understand fully and precisely the views of your own Government upon this delicate subject.

The Government does not acknowledge the right in any other nation to visit and detain the vessels of American citizens engaged in commerce.

The flag which the vessel wears is *primâ facie*, although it is not a conclusive proof of nationality: it is a mere emblem, and it loses its true character when it is worn by those who have no right to wear it. Any vessel that displays the American flag claims to be an American, and may therefore be rightfully boarded and examined by an American cruizer if there be any circumstances attending her to justify a suspicion that she is not what she professes to be. But this privilege does not extend to the cruizers of any other nation. The United States do not claim that the mere hoisting of their flag shall give immunity to those who have no right to wear it. Such a pretension would subject their flag to degradation and dishonour, because it would make it a cover for piracy and other crimes of similar atrocity; but their own citizens, who rightfully display it, are entitled to absolute immunity and protection. You will, therefore, at all times be prompt to prevent the search or detention of vessels of The United States on the high seas in the time of peace by the armed vessels of any other Power.

Should a vessel of The United States falsely assume the flag of any other nation, it will constitute no protection. You will, however, in all such cases where, from information or appearances, you have just reason to believe that the flag of any other nation has been falsely assumed by an American vessel, proceed with great care and caution. If it should be ultimately made to appear that she is a vessel of The United States, the case will be free from any difficulty or embarrassment. But if, on the other hand, she is in fact a vessel of any other nation, then you have no right whatever to arrest, detain, board, search, or examine her, or divert her from her course.

The authority to do so depends upon her nationality, whatever appearances may be, or whatever may be your information of her character.

You should, therefore, in all cases of apparently well-grounded suspicion, proceed with great consideration and caution, in order to guard against mistake.

You may approach the suspected vessel, and speak with her, showing your own flag. You may request her to display her flag: if she refuse or omit to do so, you may discharge towards her a gun loaded with blank cartridge only. If she still refuse or omit to display her colours, you may discharge a shotted gun, pointing it so as not to hit or endanger her. If she display the colours of any foreign nation, you can proceed no further, except upon apparently well-grounded suspicion of fraudulent assumption of foreign colours by her, and upon your own responsibility.

In such case it would be a reasonable course, with due notice of your intention, to send a boat to her for verification of her nationality.

If she exhibits the requisite authentic documents to establish her foreign nationality, you will neither board her, nor detain her, nor inquire into her commercial operations, nor exercise any authority over her; and if your course has been reasonable, both with regard to the extent and manner of the verification, any claim of indemnity for detention of the vessel or interruption of the voyage, especially where the fault lies with her, will be nominal or of little account.

You will note the circumstance upon her papers if requested; and, in all cases, immediately report the facts to your own Government, that they may be communicated to the Government of the country to which the suspected vessel belongs.

The United States, in stipulating to keep a squadron on the coast of Africa, meant to give to England and all the world an assurance of her determination and ability to protect her own flag against abuse, and thus remove all pretext for any interference with it by other nations.

England accepted this stipulation as satisfactory so far as she was concerned, and therefore she has no reason, and I trust no wish, to invade the rights of The United States in that respect. I advert to the subject here only to put you in possession of the views of your own Government for your guidance in forming such arrangements as you may find it convenient to make for co-operation with British cruizers. I would consider it highly desirable that a vessel of each nation should, as far as possible, cruize in company with a vessel of the other, so that each might be in a condition to prevent abuse of the flag of its own country.

In this way all just ground of difference or collision would be removed, while the harmonious co-operation of two Powers will go far to insure the full accomplishment of the common object in the suppression of the Slave Trade.

It is to be borne in mind that while The United States sincerely desire the suppression of the Slave Trade and design to exert their

power in good faith for the accomplishment of that object, they do not regard the success of their efforts as their paramount interest nor as their particular duty. They are not prepared to sacrifice to it any of their rights as an independent nation, nor will the object in view justify the exposure of their own people to injurious and vexatious interruptions in the prosecution of their lawful pursuits. Great caution is to be observed on this point.

No. 280.—*Lord Lyons to Lord J. Russell.*—(*Received August* 4.)

My Lord, *Washington, July* 11, 1859.

On the 9th May last the French Minister and I, in execution of instructions from our respective Governments, addressed notes to the Government of The United States, inviting it to issue to its cruizers instructions identical with those provisionally adopted by Great Britain and France, in regard to the verification of the nationality of merchant-vessels at sea.

The Secretary of State informed us, in reply, on the 12th May, that The United States' Government would prepare fresh instructions to its naval officers with reference to that subject, and would furnish us with a copy of them so soon as they should be issued.

I have to-day been informed, verbally, by General Cass, that the instructions issued in fulfilment of this promise are contained in the extract, of which, and of the note which accompanied it from the Secretary of State, copies were inclosed in my despatch to your Lordship of the day before yesterday. I find that the same extract, accompanied by a similar note, was communicated to the French Chargé d'Affaires.

The extract in question does in fact contain, among many other things, some instructions nearly the same in substance, although very far from identical in form, with those adopted by Great Britain and France with respect to the verification of the nationality of merchant-vessels. I did not, however, when I transmitted the extract to your Lordship the day before yesterday, understand that it contained the instructions promised in reply to the invitation of the British and French Governments. The note from General Cass, which accompanied it, made no allusion to that invitation; and the form and contents of the extract itself naturally led me to suppose that it was sent to me only in execution of the promise contained in General Cass's unofficial letter to me of the 7th July, to communicate to me the general instructions to be given to the officers commanding the vessels about to be added to the squadron on the Coast of Africa.

I have, &c.

Lord J. Russell. LYONS.

No. 282.—*Lord Lyons to Lord J. Russell.*—(*Received August* 8.)

My Lord, *Washington, July* 25, 1859.

On the 22nd instant, in obedience to the instructions conveyed to me by your Lordship's despatch of the 8th instant, I read to General Cass the despatch addressed to the Earl of Malmesbury by Mr. Gabriel, Her Majesty's Commissioner at Loanda, on the 5th of March last, with respect to the scandalous abuse made of the American flag for Slave Trade purposes.

I called General Cass's particular attention to the latter part of the despatch, from which it appeared that although Mr. Gabriel had pointed out to the officers of The United States' squadron that the River Congo is the great slave mart to which vessels under the American flag resort, no cruizer of The United States had entered that river for 6 months. Further, I stated to General Cass that Her Majesty's Government were most anxious to learn when the steam-vessels destined to reinforce The United States' squadron on the coast of Africa would be despatched; and that I was instructed to urge that sailing orders should be given to them with the least possible delay. Finally, I asked the General to give me, in writing, a statement of the number and force of the vessels of which the reinforcement was to be composed.

General Cass observed, in reply, that of all the subjects which he had to treat, this question of the abuse made of the American flag by traders in slaves was the most annoying and the most perplexing. It was impossible, he said, that any one could doubt that the President and the present Administration were sincerely and heartily desirous that this abuse should be effectually suppressed. With this object, no less than 9 steamers would be despatched to reinforce the squadrons on the coasts of Africa and Cuba. He was not prepared to admit that there had been any general laxity on the part of the naval officers of The United States. At any rate, a new Commander-in-chief had been appointed to the squadron on the coast of Africa, and it was to be hoped that with the more efficacious means which that officer would have at his disposal, the abuse of the American flag would be entirely put a stop to.

General Cass concluded by saying, that the information for which Her Majesty's Government wished respecting the steam-vessels about to be dispatched, was contained in a paper which he had given me the day before. He had (as he had then told me) been very much disappointed to find that these vessels were not in a more forward state; but the Navy Department had promised that every exertion should be made to equip them as fast as possible.

The paper to which General Cass referred is that, a copy of which was inclosed in my despatch of the 21st instant. I reminded the General that it did not specify the force of the steam-vessels,

and he promised, at my request, to procure and communicate to me a further statement supplying this deficiency.

In execution of this promise, the General has sent me the paper of which I have the honour to inclose a copy herewith.

I have, &c.

Lord J. Russell. LYONS.

(*Inclosure.*)—*List of Vessels of The United States' destined for the Coast of Africa and Gulf of Mexico, with Number of Guns, &c.*

Name.	Mechanical Power.	No. of Guns.	Destination.
San Jacinto	Steam-propeller	17	Coast of Africa.
Mohican	Ditto.	7	Ditto.
Sumter	Ditto.	6	Ditto.
Mystic..	Ditto.	6	Ditto.
Fulton..	Side-wheel steamer	5	Gulf of Mexico.
Crusader	Steam-propeller	6	Ditto.
Wyandotte	Ditto.	6	Ditto.
Mohawk	Ditto.	6	Ditto.
Waterwitch	Side-wheel steamer	3	Ditto.

No. 283.—*Lord Lyons to Lord J. Russell.*—(*Received August* 27.)

(Extract.) *Washington, August* 16, 1859.

On the 12th instant I communicated to General Cass verbally the substance of your Lordship's despatch of the 29th ultimo. I called his attention to the fact that the Slave Trade was very greatly increasing, and was carried on almost entirely under The United States' flag; and I begged him to bring to the notice of the proper authorities the disadvantage which appeared to be caused by the omission in the law of The United States, or in the instructions given to their cruizers, of provisions to define what constitute the fittings of a slave-vessel. In conclusion, I said that it was needless to add that Her Majesty's Government did not in any way question the zeal or sincerity of the Government of The United States in the matter of the suppression of the Slave Trade.

General Cass replied, that as to what fittings constituted such evidence of a vessel's being engaged in the Slave Trade as to warrant her capture, he thought it difficult to lay down precise rules beforehand, and was of opinion that a great deal must be left to the judgment of the officers employed for the suppression of the trade. With respect to the earnest desire of the President and the present Administration effectually to put a stop to the traffic, there could, the General said, be no doubt. The large proportion of their navy employed, or on the point of being employed, for this purpose, was in itself a convincing proof of this desire.

Lord J. Russell. LYONS.

No. 289.—*Lord J. Russell to Lord Lyons.*

MY LORD, *Foreign Office, September* 16, 1859.

THE communications from Her Majesty's Commissioner at Loanda, of which copies have been sent to your Lordship, will enable you to point out to the Government of The United States the difficulty which attends the operations of the American vessels cruizing for the suppression of the Slave Trade, in consequence of the want of authority similar to that contained in the Equipment Article of the Treaties between Great Britain and other Powers, by which they would be able to treat as being engaged in the Slave Trade any American vessels having on board such things as are usually found in vessels so engaged.

If the Government of The United States earnestly desire the suppression of the Slave Trade, they should call the attention of Congress to this serious defect in their legislation upon this subject.

We do not propose, of course, any negotiation or Convention other than the subsisting Treaty. I am, &c.

Lord Lyons. J. RUSSELL.

No. 294.—*Lord Lyons to Lord J. Russell.*—(*Received October* 25.)

(Extract.) *Washington, October* 11, 1859.

WITH reference to your Lordship's despatch of the 16th ultimo, I have the honour to inclose a copy of a memorandum which I have placed in the hands of General Cass, for the purpose of calling the attention of the Cabinet of Washington to the defect of the law in not providing that the fact of an American vessel's being evidently equipped for the Slave Trade shall suffice to warrant her being treated as a slaver by The United States' cruizers.

Lord J. Russell. LYONS.

(*Inclosure.*)—*Memorandum.*

October 10, 1859.

THE operations of The United States' squadron employed for the suppression of the Slave Trade appear to be seriously impeded by the want of definite authority to regard the discovery of articles usually found only on board vessels engaged in that unhallowed traffic, as sufficient ground for treating as a slaver (in absence of proof to the contrary) the vessels on board of which the discovery is made.

Among the articles which have been considered as affording *primâ facie* evidence that the vessel on board of which they are discovered, is destined to be employed in the Slave Trade, the following may be enumerated:

Hatches with open gratings, instead of the close hatches usual in merchant-vessels; divisions or bulk-heads in the hold or on deck in greater numbers than are necessary for vessels engaged in lawful trade; spare plank fitted for being laid down as a second or slave-deck; shackles, bolts, or handcuffs; a larger quantity of water, in casks or in tanks, than is requisite for the consumption of the crew of such vessel; an extraordinary number of water-casks or other receptacles for holding liquid, unless it be proved that such casks or other receptacles are destined only to hold palm-oil, or for other purposes of lawful commerce; a greater quantity of mess-tubs or beds than are requisite for the use of the crew; a boiler or other cooking apparatus, larger or capable of being made larger than is requisite for the use of the crew, or more than one boiler or other cooking apparatus of the ordinary size; an extraordinary quantity of rice, of the flour of Brazil, manioc or cassida, commonly called "farina," or of maize or of Indian corn, or of any other article of food beyond the probable wants of the crew, unless such extra quantity shall appear on the manifest as forming part of the trading cargo of the vessel; a quantity of mats or matting greater than is necessary for the use of the vessel, unless such mat or matting be entered on the manifest as forming part of the cargo; an extraordinary quantity of medicines, of a nature suited to the requirements of slaves, and admitting of being safely administered by men not skilled in the medical profession.

It is understood, however, that the laws of The United States, as well as the instructions issued to the officers in command of their cruizers, are silent as to the nature or description of articles which are to be considered as evidence of the employment in the Slave Trade of the vessel on board of which they are found, and that consequently much difficulty is experienced by those officers in inter-



I have to instruct you to communicate the substance of these reports to The United States' Government. I am, &c.

Lord Lyons. J. RUSSELL.

No. 305.—*Lord J. Russell to Lord Lyons.*

MY LORD, *Foreign Office, December* 9, 1859.

I TRANSMIT herewith, for your Lordship's information, a copy of a letter from Commodore Wise, the senior officer in command of Her Majesty's naval forces on the African coast, inclosing a copy of a letter addressed by him to Commander Calhoun, of The United States' sloop-of-war *Portsmouth*, expressing his satisfaction at the capture by that officer of the slaver *Emily*, under the American flag, and acquainting him with the nature of the orders which he had given for the co-operation of British officers with the commanders of United States' cruizers in the suppression of the Slave Trade.

Your Lordship will take an opportunity of acquainting General Cass with the tenor of the instructions issued by Commodore Wise to the commanders of British cruizers. I am, &c.

Lord Lyons. J. RUSSELL.

No. 307.—*Lord J. Russell to Lord Lyons.*

MY LORD, *Foreign Office, December* 17, 1859.

I TRANSMIT to your Lordship herewith a copy of a despatch from Mr. Gabriel, Her Majesty's Commissioner at Loanda, containing information relative to the extent to which the American flag is abused for Slave Trade purposes, and inclosing copies of a correspondence which has passed between him and the Commander of The United States' ship of war *Vincennes* on this subject.

I am, &c.

Lord Lyons. J. RUSSELL.

No. 310.—*Lord Lyons to Lord J. Russell.*—(*Received December 29.*)

MY LORD, *Washington, December* 6, 1859.

I HAVE the honour to inclose a copy of a note in which, in obedience to the instructions contained in your Lordship's despatches of the 18th and 19th ultimo, I have communicated to The United States' Government the substance of reports from Commodore Wise respecting the apathy concerning the suppression of the Slave Trade manifested by Commander Totten, of The United States' corvette *Vincennes*. I have, &c.

Lord J. Russell.

(*Inclosure* I.)—*Lord Lyons to General Cass.*

SIR, *Washington, December* 5, 1859.

THE inclosed memorandum will make you acquainted with the

substance of official reports which have been received by Her Majesty's Government respecting the proceedings of Commander Totten of The United States' ship *Vincennes*, on the Coast of Africa.

I have been instructed to communicate this information to the Government of The United States, and in doing so to state that it is not the intention of Her Majesty's Government to make any comments upon the apparent apathy of Commander Totten in the fulfilment of the duties with which he was specially entrusted, because Her Majesty's Government feel convinced that the Government of The United States, on being made acquainted with the facts, will not fail to take the necessary steps to ascertain whether, in the case of the *Isla de Cuba* and in the cases of the other vessels referred to, that officer took proper measures to prevent the flag of The United States from being used as a cloak to cover the traffic in slaves.

I have, &c.

General Cass. LYONS.

(*Inclosure* 2.)—*Memorandum.*

On the 15th August, 1859, Commodore Wise, senior officer of Her Majesty's naval forces on the West Coast of Africa, addressed a letter to Commander B. J. Totten, of the United States' corvette *Vincennes*, informing him that the noted slavers *Memphis*, *Star of the West*, and *Ottawa*, were openly cruizing, under American colours, between Ambriz and the Congo, waiting until the slaves were collected to form their cargoes. Commodore Wise added that very many slavers, under American colours, were still on the coast, while a considerable number had escaped since the 1st of January, owing to the protection afforded by the American flag. Finally, the Commodore stated the circumstances which led him to believe that the *Vincennes* would have it in her power to capture the *Memphis* and the *Star of the West*, together with several other slavers under American colours, and urged Commander Totten to bring his ship to the spot as soon as possible: or if he were precluded from doing that, to dispatch boats to the neighbourhood of Bahia Fonda.

This letter was delivered to Commander Totten, on 19th August, at St. Paul de Loanda by Lieutenant Burton, commanding Her Majesty's ship *Triton*. Commander Totten attended to the representation made to him so far as to dispatch two boats, which were conveyed by the *Triton* to Bahia Bay, and which proceeded thence on the 24th August along the coast as far as the Congo, but no satisfactory result was obtained.

On the 26th August, Lieutenant Burton communicated with the *Vincennes* at Fonda Bay, and pointed out to Commander Totten

the slave-vessel *Memphis*, bearing north-west. The wind being very light, Lieutenant Burton offered to get up steam and tow the boats of the *Vincennes* to examine the *Memphis*; but Commander Totten declined this offer, saying that he thought he could overtake her in his own ship. He did not, however, attempt to do so, and in consequence of this want of alacrity the *Memphis* escaped a visit which must, it is believed, have resulted in her capture.

On the 28th August Commodore Wise wrote a second letter to Commander Totten, transmitting to him information which showed that several vessels had obtained genuine American papers by means of gross perjury. Commodore Wise had fallen in with one of these vessels, the *Isla de Cuba*, in Black Point Bay, flying American colours. The beach at the time was thronged with natives, who were, it was believed, on the point of being shipped on board. The *Isla de Cuba* having been visited, a register, obtained by the nefarious practices referred to, was produced, on which the Christian name of the master had been altered from "*John*" to "*Lauren*."

On the following morning Commodore Wise, having well considered the case, felt convinced that he should not be justified in leaving the *Isla de Cuba* at liberty. She had, indeed, hoisted United States' colours, but the Commodore was persuaded that her assumption of being American was fraudulent. He knew that she was the property of the Portuguese slave-dealer Reis, and that her real master was a Portuguese of the name of Correa. He had discovered that she was fully fitted for the Slave Trade; her slave-coppers, water, and provisions being on board, and her slave-deck partially laid. He conceived therefore that his only course was to send her to one of the cruizers of the country to which she claimed to belong, that being, in his opinion, the most effective method of exposing the nefarious practices by which Spaniards and Portuguese contrive to carry on the Slave Trade under the protection of the United States' flag. Having stated these circumstances, Commodore Wise concluded his letter by expressing his conviction that Commander Totten would make every exertion to bring the master, owners, and crew of the *Isla de Cuba* to the punishment they so justly deserved.

On the 30th of August Commodore Wise placed an officer on board the *Isla de Cuba*, and instructed him to transfer her to the jurisdiction of the United States' corvette *Vincennes* at St. Paul de Loanda, or to that of any other American man-of-war he might fall in with.

On the 1st of September Commodore Wise communicated with the *Vincennes*, and furnished her commander with a duplicate of the letter of the 28th of August mentioned above.

Commander Totten informed Commodore Wise that he was on

his way to Porto Praya, and that he expected to go on thence to America; but, in compliance with a requisition from the Commodore, he promised to remain 7 days at Mayumba, to which place the Commodore has ordered the officer in charge of the *Isla de Cuba* to proceed with that vessel in the event of his not meeting the *Vincennes* at Loanda.

On the 7th of September Commodore Wise himself anchored at Mayumba, and was much surprised to ascertain, from the whalers at the anchorage, that the *Vincennes* had not even looked into that neighbourhood. Two days after the *Isla de Cuba* arrived, and the officer in charge reported that not having found the *Vincennes* at Loanda he had followed her with all despatch along the coast, and should have fallen in with her had Commander Totten adhered to his engagement.

By the breach of that engagement Commodore Wise was deprived of the only means of bringing the *Isla de Cuba*, to justice, except sending her to The United States. This he did not deem it expedient to do for the reason (among others) that she was so badly fitted that he did not feel justified in exposing a crew to encounter, in so unseaworthy a vessel, the weather which prevails on the American coast in the winter months. He was therefore obliged to release her, and she forthwith made all sail to Black Point.

It is not doubted that her Portuguese captain will there have taken on board her cargo of slaves, and that thus this vessel will be added to the long list of those who have carried on the Slave Trade with impunity under the American flag.

No. 316.—*Lord Lyons to Lord J. Russell.*—(*Received January* 30.)

MY LORD, *Washington, January* 17, 1860.

In obedience to the instructions conveyed to me by your

Government are aware, neither are there any United States' cruizers on the Eastern Coast, nor is there on that coast any authority competent to prevent the abuse of the American flag by vessels engaged in the Slave Trade. I concluded by saying that the object of Her Majesty's Government in instructing me to make the communication was to obviate those complications which might arise from the absence of any United States' officer to whom appeal might be made by the commanders of British cruizers, with respect to vessels suspected of fraudulently assuming the American flag on the Eastern Coast.

I have the honour to inclose a copy of a short memorandum which I thought it well to leave with General Cass, in order to guard against this matter being forgotten amidst the multitude of subjects by which his attention is at this moment engaged.

I have, &c.

Lord J. Russell. LYONS.

(*Inclosure.*)—*Memorandum.*

It appears that the Slave Trade has been for some time on the increase on the Eastern Coast of Africa, and that several large vessels, under the American flag, have shipped cargoes of slaves there for the Cuban market. There are now indications of an intention on the part of the slave-traders to resort still more extensively to the Eastern Coast. This is, doubtless, to be accounted for by the recent reinforcement of The United States' squadron on the Western Coast.

It is believed that on the Eastern Coast of Africa there are no United States' cruizers, and that there is there no authority competent to take cognizance of the abuse of the American flag, whether by vessels really American or by vessels fraudulently assuming the flag. It is desired to bring this matter to the notice of the Government of The United States, in order to obviate those complications which might be occasioned by the absence of any United States' officer to whom an appeal might be made by the commanders of British cruizers, when vessels engaged in the Slave Trade are suspected of fraudulently assuming The United States' flag.

No. 324.—*Lord Lyons to Lord J. Russell.*—(*Received March* 20.)

My Lord, *Washington, March* 5, 1860.

On the 2nd instant, in obedience to your Lordship's orders, I read to General Cass your Lordship's despatch of the 6th ultimo, and left with him a copy of it.

General Cass said, that The United States' Government would not fail to take into consideration the proposal which it contains, that the Ministers of The United States and of other Powers shall

No. 271.—*Lord J. Russell to Lord Lyons.*

(Extract.) *Foreign Office, July* 8, 1859.

THE archives of your Lordship's mission will furnish evidence of the repeated instances in which Her Majesty's Government have, with regret, found themselves compelled to call attention to the fraudulent use of the American flag for Slave Trade purposes.

This abuse, as your Lordship is aware, is no longer confined to hoisting The United States' ensign, but is systematically covered by the production of ships' papers, which, although originally genuine when the vessel sailed from The United States, are, in reality fraudulent when produced on the Coast of Africa, in consequence of transfers which have taken place in the interval.

Such a system might at once be checked by the active interference of United States' cruizers; but owing to the insufficiency of the squadron now maintained, this interference cannot be effectively carried out, and the Slave Trade is consequently increasing to an alarming extent.

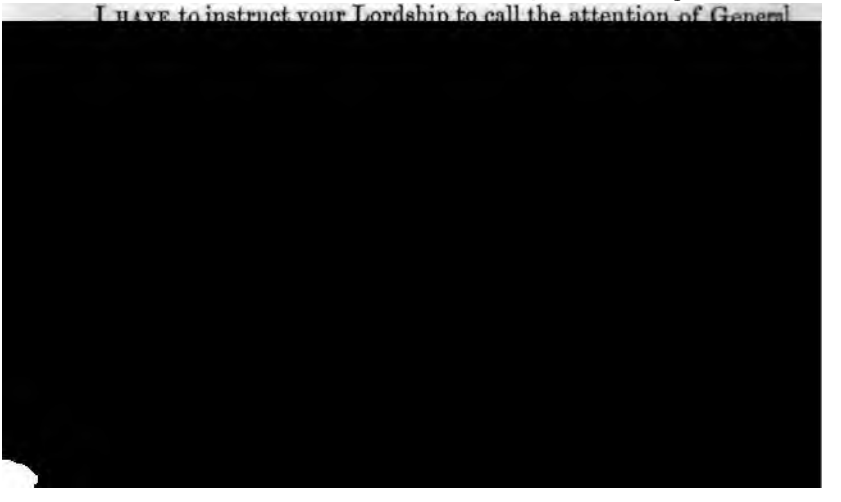
A striking instance of this is shown in a despatch from Her Majesty's Commissioner at Loanda, of which I herewith transmit to you a copy. Your Lordship will read that despatch to General Cass, calling his Excellency's particular attention to the latter part of it, which shows that notwithstanding that Mr. Gabriel has pointed out to American officers that the River Congo is the great slave-mart to which American vessels resort, no cruizer of The United States has entered that river for 6 months.

Lord Lyons. J. RUSSELL.

No. 278.—*Lord J. Russell to Lord Lyons.*

(Extract.) *Foreign Office, July* 29, 1859.

I HAVE to instruct your Lordship to call the attention of General



of The United States in regard to their flag, and the strict rules of international law, prevent any effectual interference with the Slave Trade by British cruizers in the case of American ventures. But so much the more it behoves The United States' Government to take effectual means to save the honour of their flag from this abuse of its immunity.

It appears, moreover, from accounts recently received by Her Majesty's Government from the African coast, that slavers under the American flag are enabled to carry on their nefarious traffic, even in the presence of United States' cruizers, owing to the omission in the laws of The United States, or in the instructions furnished to American cruizers, of provisions to define what constitute the fittings of a slave-vessel, and I have to instruct your Lordship to bring this defect to the notice of The United States' Government.

I need not tell your Lordship that we do not in any way question the zeal and sincerity of The United States' Government in this matter.

Lord Lyons. J. RUSSELL.

No. 279.—*Lord Lyons to Lord J. Russell.*—(*Received August* 1.)

(Extract.) *Washington, July* 19, 1859.

I HAVE the honour to transmit to your Lordship copies of a note addressed to me by General Cass, and of a paper inclosed in it which contains an extract from instructions given by the Secretary of the Navy to the officer appointed to command The United States' squadron on the coast of Africa.

Lord J. Russell. LYONS.

(*Inclosure* 1.)—*General Cass to Lord Lyons.*

MY LORD, *Washington, July* 18, 1859.

I HAVE the honour to transmit to you herewith, for the information of Her Britannic Majesty's Government, extracts from the instructions of the 6th instant, given by the Navy Department to Captain William Inman, appointed to command the squadron of The United States on the African Station.

Lord Lyons. LEW. CASS.

(*Inclosure* 2.)—*Mr. Toucey to Captain Inman.*

(Extract.) *July* 6, 1859.

IN regard to your duties in suppressing the Slave Trade, the following views are stated for your guidance.

The United States are sincerely desirous wholly to suppress the traffic, and with that view have declared it piracy. They have by their Treaty with England come under specific stipulations upon the subject, to which your particular attention is called.

IV. Les Belges au Pérou, et les Péruviens en Belgique, seront exempts de tout service militaire, soit dans l'armée, soit dans la marine, soit dans la milice ou garde nationale, et, en aucun cas, ils ne pourront être assujettis, pour leurs propriétés mobilières et immobilières, à d'autres charges, restrictions, taxes ou impôts que ceux auxquels seraient soumis les citoyens du pays. Il est convenu également que les citoyens des deux pays qui sont établis ou s'établiraient sur le territoire de l'autre jouiront de tous les avantages que les lois ou décrets en vigueur accordent ou accorderaient à l'avenir aux étrangers immigrants, mais avec l'obligation de remplir les conditions imposées ou exprimées dans ces dispositions.

V. Les Belges au Pérou, et les Péruviens en Belgique, jouiront d'une entière liberté de conscience. Les uns et les autres se soumettront, quant à l'exercice extérieur de leur culte, aux lois respectives de chaque pays.

VI. Les citoyens de chacune des deux Parties Contractantes pourront librement, sur les territoires respectifs, voyager ou séjourner, commercer en gros et en détail comme il est permis actuellement de le faire ou comme il le sera par la suite aux sujets de la nation la plus favorisée; louer et occuper les maisons, magasins et boutiques qui leur seront nécessaires, transporter des marchandises et des espèces et recevoir des consignations tant de l'intérieur que des pays étrangers, suivant les lois de chacun des deux pays, sans être assujettis, pour toutes ses opérations ou pour aucune d'elles, à d'autres obligations, charges ou restrictions que celles qui sont imposées aux indigènes, sauf les précautions de police qui sont employées à l'égard des nations les plus favorisées.

Ils seront les uns et les autres sur un pied de parfaite égalité, libres dans leurs achats et leurs ventes, d'établir et de fixer le prix des effets, marchandises et objets quelconques importés ou produits dans le pays, qu'ils les vendent à l'intérieur ou qu'ils les destinent à l'exportation en se conformant toutefois aux lois et aux règlements en vigueur.

Ils jouiront de la même liberté pour diriger leurs affaires eux-mêmes, présenter en douane leurs déclarations ou se faire représenter par des personnes qu'ils choisiront comme fondés de pouvoirs, facteurs, agents consignataires ou interprètes, soit pour l'achat ou la vente de leurs biens, de leurs effets ou marchandises, soit pour charger, décharger ou expédier leurs navires. De même, ils auront le droit de remplir toutes les fonctions qui leur seront confiées par leurs compatriotes, par des étrangers ou par les citoyens du pays, comme fondés de pouvoirs, facteurs, agents consignataires ou interprètes, en se soumettant en tout aux lois du pays, et sans avoir à payer, comme étrangers, aucun surcroît de salaire ou de rétribution.

VII. Les citoyens de chacune des Parties Contractantes auront le droit, sur les territoires respectifs, de posséder des biens de toute espèce, et d'en disposer de la même manière que les nationaux.

Les Belges jouiront, dans tout le territoire de la République du Pérou, du droit de recueillir et de transmettre les successions *ab intestat* ou testamentaires à l'égal des Péruviens, selon les lois du pays, sans être assujettis, à raison de leur qualité d'étrangers, à aucun prélèvement ou impôt qui ne serait pas dû, dans le même cas, par les sujets nationaux; réciproquement les Péruviens jouiront en Belgique du droit de recueillir et transmettre les successions *ab intestat* ou testamentaires, à l'égal des Belges, selon les lois du pays, sans être assujettis, à raison de leur qualité d'étrangers, à aucun prélèvement ou impôt qui ne serait pas exigé des sujets territoriaux dans les mêmes cas. La même réciprocité entre les citoyens des deux pays existera pour les donations entre-vifs.

Lors de l'exportation des biens recueillis ou acquis, à quelque titre que ce soit, par des Belges dans la République du Pérou ou par des Péruviens en Belgique, il ne sera prélevé sur ces biens aucun droit de détraction ou d'émigration, ni aucun droit quelconque auquel les indigènes ne seraient pas soumis.

L'exemption susmentionnée comprend non-seulement les droits de détraction qui pourraient être perçus par le trésor public, mais également tous les droits de détraction ou d'émigration, dont la perception serait du ressort d'individus, de communes, de fondations publiques, de paroisses, de districts ou de corporations.

Les dispositions qui précèdent sont applicables à toutes les successions à échoir à l'avenir et à toutes les translations de biens en général, dont l'exportation n'a pas encore été effectuée.

VIII. Seront considérés comme Belges au Pérou et comme Péruviens en Belgique, tous les navires qui navigueront sous les pavillons respectifs et qui seront munis des papiers de bord et des documents exigés par les lois de chacun des deux Etats pour la justification de la nationalité des bâtiments de commerce.

IX. Les navires Belges qui entreront sur lest ou chargés dans les ports du Pérou, ou qui en sortiront, et réciproquement les navires Péruviens qui entreront sur lest ou chargés dans les ports de Belgique, ou qui en sortiront, soit par mer, soit par rivières ou canaux, quel que soit le lieu de leur départ ou celui de leur destination, ne seront assujettis, tant à l'entrée qu'à la sortie et au passage, à des droits de tonnage, de port, de balisage, de pilotage, d'ancrage, de remorque, de fanal, d'écluse, de canaux, de quarantaine, de sauvetage, d'entrepôt, de patente de navigation, de péage, enfin, à des droits ou charges de quelque nature ou dénomination que ce soit pesant sur la coque des navires perçus ou établis au nom du Gouvernement, de fonctionnaires publics, de communes ou d'établissements

quelconques, autres que ceux qui sont actuellement ou pourront par la suite être imposés aux bâtiments de la nation la plus favorisée, à l'entrée, pendant leur séjour dans les ports, à leur sortie, ou dans le cours de leur navigation.

X. En ce qui concerne le placement des navires, leur chargement et déchargement dans les ports, rades, hâvres et bassins, et généralement pour toutes les formalités et dispositions auxquelles peuvent être soumis les navires de commerce, leur équipage et leur chargement, il est convenu qu'il ne sera accordé aux navires nationaux aucun privilége ni aucune faveur qui ne le soit également à ceux de l'autre partie, la volonté des deux Parties Contractantes étant que, sous ce rapport leurs bâtiments soient traités sur le pied d'une parfaite égalité.

La même égalité existera à l'égard des navires de chacune des Parties Contractantes, qui entreront en relâche forcée dans les ports de l'autre; ils ne payeront, soit pour le bâtiment, soit pour la cargaison, qu'elle soit déposée à terre ou transbordée, d'autres droits que ceux auxquels sont soumis en pareil cas les navires nationaux, pourvu que la nécessité de la relâche soit constatée, que les navires ne fassent aucune opération de commerce et qu'ils ne séjourneront pas plus longtemps dans le port que ne l'exige le motif de la relâche.

XI. Les bâtiments de guerre de chacune des Parties Contractantes pourront entrer, séjourner et se radouber dans ceux des ports de l'autre dont l'accès est accordé aux mêmes navires de la nation la plus favorisée; ils y seront soumis aux mêmes règles, et ils jouiront des mêmes avantages.

XII. Les marchandises de toute nature importées dans les ports de l'un des deux Etats sous pavillon de l'autre, quelle que soit leur origine et de quelque pays qu'ait lieu l'importation, ne payeront d'autres ni de plus forts droits d'entrée et ne seront assujettis à d'autres charges que si elles étaient importées sous pavillon national.

XIII. Les produits de toute espèce exportés par navires Belges ou Péruviens des ports de l'un ou de l'autre de ces Etats vers quelque autre pays, ne seront pas assujettis à d'autres droits ou à d'autres formalités que si l'exportation avait lieu sous pavillon national.

XIV. Les primes, restitutions ou autres faveurs de cette nature qui pourraient être accordées dans les Etats des deux Parties Contractantes sur des marchandises importées ou exportées par des navires nationaux seront accordées également et de la même manière aux marchandises importées ou exportées par les navires de l'autre Etat.

XV. Il est fait exception aux dispositions de l'Article précédent

pour l'importation du sel et des produits de la pêche nationale, les deux pays se réservant la faculté d'accorder des priviléges spéciaux à l'importation de ces articles sous pavillon national.

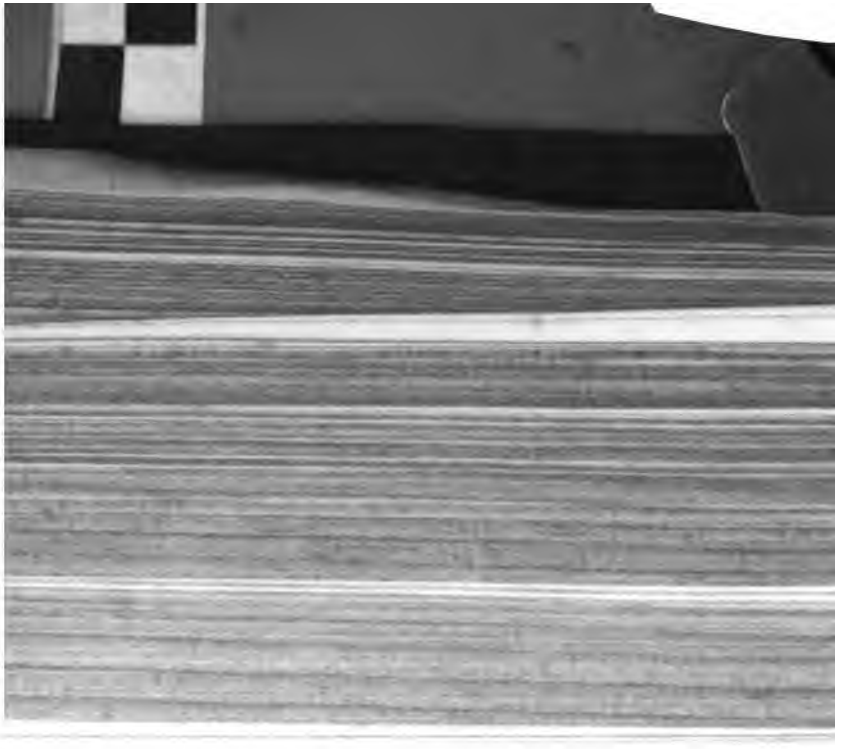
XVI. Les bâtiments Belges au Pérou et les bâtiments Péruviens en Belgique pourront décharger une partie de leur cargaison dans le port de prime abord, et se rendre ensuite avec le reste de cette cargaison dans d'autres ports du même Etat, qui sont ouverts au commerce étranger, soit pour y achever de débarquer leur chargement, soit pour y compléter leur chargement de retour; en ne payant, dans chaque port, d'autres ni de plus forts droits, que ceux que payent les bâtiments de la nation la plus favorisée dans les mêmes circonstances. En ce qui concerne l'exercice du cabotage, les navires des deux nations seront traités de part et d'autre sur le même pied que ceux de la nation la plus favorisée.

XVII. Pendant le temps fixé par les lois des deux pays respectivement pour l'entreposage des marchandises, il ne sera perçu d'autres droits que ceux de garde et d'emmagasinage sur les objets importés de l'un des deux pays dans l'autre, en attendant qu'ils soient expédiés pour la consommation intérieure ou en transit, ou bien réexportés, et, en aucun cas, ils ne payeront de plus forts droits d'entrepôt et ne seront assujettis à d'autres formalités, que s'ils avaient été importés par pavillon national.

XVIII. Les objets de toute nature venant de Belgique ou expédiés vers la Belgique, jouiront, à leur passage par le territoire Péruvien, du traitement applicable, dans les mêmes circonstances, aux objets provenant ou en destination du pays le plus favorisé. Réciproquement les objets de toute nature venant du Pérou ou expédiés vers le Pérou, jouiront, à leur passage sur le territoire Belge, du traitement applicable dans les mêmes circonstances aux objets venant ou en destination du pays le plus favorisé.

XIX. Les deux Hautes Parties Contractantes conviennent entre elles que toute faveur, privilége ou immunité que l'une d'elles aurait accordée ou accorderait en fait de douane ou de navigation aux sujets d'un autre Etat, sera étendue aux sujets de l'autre Partie Contractante, gratuitement si la concession en faveur de l'autre Etat est gratuite, ou moyennant une compensation équivalente si la concession a été conditionnelle.

Aucune des Parties Contractantes n'imposera, soit à l'importation, soit à la réexportation des produits du sol ou de l'industrie de l'autre partie, des droits différents ou plus élevés que ceux qui se prélèvent à l'importation ou à la réexportation des marchandises similaires, provenant de tout autre pays étranger. Aucune restriction, aucune prohibition d'importation ou d'exportation n'aura lieu dans le commerce réciproque des Parties Contractantes, qu'elle ne soit également étendue à toutes les autres nations.



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y exerçant le commerce ou quelque autre profession privée, auront la faculté d'y rester en continuant leur profession ou leurs affaires, sans être troublés dans la jouissance de leur liberté et de leurs biens, pour autant qu'ils se conduisent pacifiquement et qu'ils n'enfreignent pas les lois; et leurs biens et effets ne seront pas sujets à être saisis ou séquestrés et ne seront soumis à aucun impôt que n'auraient point à payer, sur des biens de la même espèce, les citoyens du pays. Les négociants et les autres personnes résidant sur les côtes auraient 6 mois pour régler leurs comptes et disposer de leurs biens, s'ils avaient l'intention de quitter le pays; ceux qui résident dans l'intérieur auront un délai d'une année, et un sauf-conduit leur sera délivré pour s'embarquer dans le port qu'ils choisiront. En aucun cas, les dettes entre particuliers, les fonds publics ni les actions des compagnies, ne seront saisis, séquestrés ou confisqués.

XXVII. S'il arrivait que l'une des Parties Contractantes fût en guerre avec quelque autre Puissance, nation ou Etat, les sujets de l'autre pourront continuer leur commerce, par mer ou par terre, avec ces mêmes Etats, excepté avec les villes ou ports qui seraient bloqués ou assiégés par terre ou par mer.

Pour être obligatoire le blocus devra être effectif, c'est-à-dire maintenu par une force suffisante pour interdire réellement l'accès de l'endroit bloqué.

Prenant en considération l'éloignement des pays des deux Hautes Parties Contractantes et l'incertitude qui en résulte sur les événements qui peuvent avoir lieu, il est convenu qu'un bâtiment marchand qui tentera d'entrer dans un port assiégé ou bloqué, sans avoir connaissance du siége ou du blocus, pourra quitter librement

alors même qu'elles appartiendraient aux ennemis de la seconde, et d'autre part, les marchandises appartenant à la partie neutre ne seront pas saisissables, alors mêmes qu'elles seraient trouvées à bord des navires ennemis de l'autre partie. Les articles de contrebande de guerre sont exceptés du bénéfice de cette double disposition.

XXIX. S'il arrivait qu'une des Parties Contractantes fût en guerre avec un autre Etat quelconque, l'autre partie ne pourra, en aucun cas, autoriser ses nationaux à prendre ou à accepter des lettres de marque, pour agir hostilement contre la première, ou pour inquiéter le commerce ou les propriétés de ses citoyens.

XXX. Le présent Traité sera observé et en vigueur pendant 5 ans qui commenceront à courir deux mois après l'échange des ratifications. Cependant si, un an avant l'expiration de ce terme, aucune des deux Parties Contractantes n'a exprimé à l'autre, par une déclaration officielle, son intention de l'annuler et d'en faire cesser les effets, le Traité continuera de subsister et d'être obligatoire pour les deux Parties pendant une année de plus, et ainsi de suite d'année en année.

XXXI. Le présent Traité sera ratifié par le Président de la République du Pérou, avec l'approbation du congrès, ainsi que par Sa Majesté le Roi des Belges, et les ratifications en seront échangées dans le délai de 18 mois, ou plus tôt, si faire se peut.

En foi de quoi les Plénipotentiaires susnommés y apposent leur signature et leur sceau.

Fait en quadruple original, en Espagnol et en Français, à Santiago du Chili, le 25 Février 1860.

(L.S.) DEROTE.
(L.S.) JUAN MAN. POLAR.

ACTE FINAL des Travaux de la Commission Mixte nommée pour la vérification de la Frontière Turco-Russe en Asie, conformément à l'Article XXX du Traité de Paris du 30 Mars, 1856.*—*Signé à Constantinople, le* 5 *Décembre,* 18[illegible].

L'ART. XXX du Traité signé et conclu à Paris, le [illegible] 56, entre l'Autriche, la France, la Grande-Bretagne, la Prussie, la Sardaigne et la Porte Ottomane, ayant déclaré que Sa Majesté l'Empereur de Toutes les Russies et Sa Majesté [illegible] Romans maintiennent dans son intégrité l'état [illegible] Asie, tel qu'il existait régalement avant la [illegible] pour

prévenir toute contestation locale, le tracé de la frontière sera vérifié et s'il y a lieu rectifié sans qu'il puisse en résulter un préjudice territorial pour l'une ou l'autre des deux parties et qu'à cet effet une Commission Mixte composée de deux Commissaires Russes, de deux Commissaires Turcs, d'un Commissaire Français et d'un Commissaire Anglais, sera envoyée sur les lieux immédiatement après le rétablissement des relations diplomatiques entre la Cour de Russie et la Sublime Porte.

Sa Majesté l'Empereur des Français a nommé pour son Commissaire M. Edmond Pélissier, Consul Général, officier de l'Ordre Impérial de la Légion d'Honneur;

Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande a nommé pour son Commissaire M. J. L. A. Simmons, Lieutenant-Colonel au corps Royal du Génie, Compagnon du Très Honorable Ordre du Bain, décoré de l'Ordre du Medjidié, de la troisième classe;

Sa Majesté l'Empereur de Toutes les Russies a nommé pour ses Commissaires, M. Tchirikoff, Général-Major, Chevalier des Ordres de St. Stanislas de la première classe, de St. Georges de la quatrième classe, &c.; et M. Michel Ivanine, Colonel, Chevalier de l'Ordre de Ste. Anne de la seconde classe;

Sa Majesté l'Empereur des Ottomans a nommé pour ses Commissaires, Hussein Pacha, Général de Brigade, décoré de l'ordre du Medjidié, de la troisième classe, et de St. Stanislas de la première classe; et Osman Bey, Colonel d'Etat-Major, décoré du Medjidié de la quatrième classe; et de St. Stanislas de la seconde classe;

Lesquels, s'étant communiqué leurs pleins-pouvoirs, trouvés en bonne et due forme, ayant exploré le terrain, entendu les témoins et lu les documents produits de part et d'autre sur toutes les questions en litige, établissent ce qui suit:

ART. I. La ligne frontière entre les deux empires de Russie et de Turquie commence là où est le point de contact entre ces deux empires et la porte vers le petit Ararat: elle suit, en passant vers le grand Ararat sur la chaîne à laquelle appartiennent ces deux montagnes, la ligne de partage des eaux qui se déchargent par le versant méridional dans la rivière de Makŭ et dans le Mourad Tchaï, et par le versant septentrional directement dans l'Araxe.

Cette frontière coupe la route de Bayazid à Erivan, qui passe par Kara Boulak et la hauteur de Chinguil à un point où se trouve le partage des eaux et où la Commission a fait élever une pyramide de pierres brutes. Comme on ne pourrait pas voir de là les points de repères propres à déterminer la position, la Commission a fait élever une autre pyramide, aussi en pierres brutes, sur le territoire Turc, à une distance de celle qui marque la frontière de 775 pieds Anglais

ou 110⅘ sagènes de Russie, dans la direction nord magnétique 305° 18′ Est.

L'indication et les directions des différents points de repère de cette pyramide, se trouvent dans l'Annexe No. 1.

La frontière, continuant à suivre le partage des eaux, coupe sur cette ligne la route qui venant du village de Mossün, va à Caravanseraï; ce point a été indiqué sur le terrain par une pyramide de pierres brutes; les points de repère propres à la déterminer géodésiquement se trouvent dans l'Annexe No. 2.

De là la frontière continuant à suivre le même partage des eaux, passe au nord du lac Babykgoel, au sud de la plaine de Mama Zidi Sinégui, et par les montagnes de Sinak et le mont Tandourak, puis elle arrive au sommet du mont Dibatz.

Du mont Dibatz la frontière suit, en descendant, le principal thalweg du Zagaran Tchaï ou Tonte Tchaï, jusqu'à son confluent avec l'Araxe, et de là le principal thalweg de l'Araxe jusqu'au point où il reçoit l'Arpa Tchaï. De ce point la frontière suit le principal thalweg de l'Arpa Tchaï, en remontant cette rivière jusqu'au point où elle reçoit le petit ruisseau de Deli Tchaï, près du village de Tshish Tapa.

Ici commence la frontière déterminée par la Commission du ⅓ Janvier, 1834.

De là la frontière suit le principal thalweg du Déli Tchaï jusqu'au point où il reçoit le ruisseau de Jakchi Boulak.

Du point de jonction de ces deux ruisseaux où se trouvent les marques de bornage Nos. 6 et 7 indiquées sur la carte, la frontière prend la direction nord-ouest et suit la ligne des marques Nos. 8, 9 et 10 jusqu'au No. 11 sur le sommet de l'Oxus Dagle. De là la frontière suit la ligne de partage des eaux versant vers le nord, c'est-à-dire sur le territoire Russe, de celles versant au sud, c'est-à-dire sur le territoire Turc, ligne indiquée sur la carte par les marques de bornage Nos. 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 et 29, où elle tourne, faisant un angle de 78° 50′ avec la direction précédente et descend à la marque No. 30, qui a été établie à 83 sagènes du bord du lac Khozapine et à deux verstes à peu près du village ruiné de ce nom.

De cette marque No. 30 la ligne frontière coupe le lac Khozapine en se dirigeant sur la marque No. 31 qui se trouve à 20 sagènes du bord du lac.

De là elle monte par les marques Nos. 32, 33 et 34 sur la pente méridionale jusqu'au No. 35 sur le haut de la chaîne de montagnes qui se trouve entre le lac Khozapine et la rivière Kür.

La description détaillée de cette frontière avec les points de repère, et leurs directions depuis le confluent du ruisseau Déli



Nabad, où se trouve la borne No. 14, et où s'arrête la ligne déterminée par la Commission Turco-Russe en 1834.

La description détaillée de cette frontière avec les points de repère et leurs directions depuis le No. 1, près des sources du ruisseau Iris Tchala, jusqu'au No. 14 sur la montagne Tshav Nabad, se trouve dans l'Annexe No. 6.

Du point No. 14 sur la montagne Tshav Nabad la frontière suit la crête qui sépare les eaux qui se versent au nord par la province du Gouriel dans la mer Noire, de celles qui se versent par le Koblian Tchaï dans la mer Caspienne, et plus loin par les vallées de l'Adjara, dans la mer Noire, jusqu'au mont Tchékhotaï.

Depuis le mont Tchekhotaï, la frontière suit le principal thalweg de la rivière Tcholok jusqu'à son embouchure dans la mer Noire.

Cette ligne de frontière se trouve indiquée sur les cartes et les tableaux descriptifs ci-annexés et signés par la Commission.

Là où la Commission déclare que la ligne frontière suit le principal thalweg d'une rivière ou d'un cours d'eau, elle entend qu'elle passe par le thalweg de la rivière même, et là où il y aurait plusieurs branches, par celui de la branche principale, quels que soient les changements qui pourront survenir dans la direction des courants.

On doit comprendre par la branche principale, celle dont la section présente le plus de surface.

II. Toute la frontière qui vient d'être décrite a été indiquée par une ligne ponctuée, teintée de rouge sur la carte, signée par les membres de la Commission Mixte, et jointe comme en faisant partie au présent Acte final des travaux de la dite Commission.

III. Les arrangements arrêtés par le présent Acte devront avoir reçu leur pleine et entière exécution matérielle pour le 1er Décembre, 1858.

IV. Le présent Acte sera ratifié et les ratifications en seront échangées dans l'espace de deux mois et plus tôt s'il est possible.

Fait à Constantinople, en quadruple expédition, le 5 Décembre, 1857.

PELISSIER.
J. L. A. SIMMONS.
TCHIRIKOFF.
IVANINE.
HUSSEIN.
OSMAN.

PROTOCOLE de la Conférence, pour la délimitation de la Frontière de la Russie et de la Turquie en Asie.—Paris, le 28 *Avril,* 1858.

PRESENTS: Les Plénipotentiaires de l'Autriche, de la France, de la Grande-Bretagne, de la Prusse, de la Russie, de la Sardaigne, et de la Turquie.

Le Plénipotentiaire de Turquie dépose ses pouvoirs. La Commission Mixte instituée par le Traité du 30 Mars, 1856,* pour la vérification de la frontière de la Russie et de la Turquie en Asie, ayant terminé ses travaux, et un acte ayant été signé à Constantinople, le 5 Décembre, 1857,† à l'effet d'en consacrer le résultat, M. le Comte Kisseleff pour la Russie et Haïdar-Effendi pour la Turquie communiquent à la Conférence les instruments originaux de l'acte final précité, ainsi que la carte qui s'y trouve annexée et en déposent les copies pour être jointes aux actes de la Conférence.

La Conférence, après avoir pris connaissance de ces documents, et ayant reconnu qu'il a été satisfait aux dispositions de l'Article XXX sus-énoncé, donne acte à MM. les Plénipotentiaires de Russie et de Turquie de leur communication.

Le Plénipotentiaire d'Autriche exprime l'espoir que la Conférence sera informée de la sanction qui sera donnée, en son temps, à l'instrument dont la Conférence vient de prendre acte. Les Plénipotentiaires de France, de la Grande-Bretagne, de Russie et de Turquie, font connaître à la Conférence qu'il a été entendu entre leurs Gouvernements que les ratifications sur l'acte communiqué et signé par leurs Commissaires, ne seront échangées qu'entre la Russie et la Turquie.

Le présent Protocole ayant été lu et approuvé a été signé aujourd'hui 28 Avril, 1858, à l'Hôtel du Ministère des Affaires Etrangères à Paris.

HUBNER.
WALEWSKI.
COWLEY.
HATZFELDT.
KISSELEFF.
VILLAMARINA.
HAIDAR.

* Vol. XLVI. Page 8.

† Page 995.

PROCES-VERBAL entre les Représentants de l'Autriche, de la France, de la Grande-Bretagne, de la Prusse, de la Russie, de la Turquie, pour la délimitation des Frontières d'Albanie, de l'Herzégovine, et du Monténégro.—Signé à Constantinople, le 8 Novembre, 1858.

UNE réunion s'étant tenue entre le Grand Vizir, le Ministre des Affaires Etrangères de la Sublime Porte et le Président du Conseil du Tanzimat, duement autorisés par Sa Majesté le Sultan d'une part, et les Représentants d'Autriche, de France, de la Grande-Bretagne, de Prusse, et de Russie, également munis à cet effet des instructions de leurs Gouvernements respectifs, d'autre part, il a été pris connaissance du travail de la Commission locale chargée de constater le *statu quo* des frontières d'Albanie, de l'Herzégovine et du Monténégro tel qu'il existait dans le courant du mois de Mars de l'année 1856.

Après examen, il a été décidé que les frontières dont il s'agit seraient déterminées conformément à la ligne tracée en rouge (*minium*) sur la carte annexée au présent procès-verbal et revêtue des signatures des membres de la réunion. Un exemplaire légalisé par le Ministre des Affaires Etrangères de la Sublime Porte en sera remis à chaque représentant.

On est convenu en même temps qu'une Commission d'ingénieurs démarcateurs, sur la composition de laquelle les Gouvernements des Hautes Puissances représentées dans la dite réunion auront à se concerter, se transportera sur les lieux au printemps prochain pour assister à la pose des bornes qui serviront à fixer les limites de l'Albanie, de l'Herzégovine et du Monténégro, en suivant exactement le tracé indiqué sur la carte ci-jointe. Cette Commission, toutefois, pourra, lorsqu'elle le jugera convenable, consulter les anciens du pays et tenir compte des mouvements de terrain afin de donner à la ligne des frontières toute la précision désirable; c'est notamment à ce mode qu'elle devra avoir recours pour déterminer les limites entre les Wassawitch supérieurs et les Wassawitch inférieurs et les Kolaschines, indiquées en pointillé sur la carte.

Il demeure entendu que la délimitation ne saurait porter aucune atteinte aux propriétés privées possédées de l'un ou de l'autre côté des frontières, soit par des individus, soit par des villages. Les contestations qui s'élèveraient à ce sujet, et ne pourraient être réglées par les parties intéressées suivant l'usage des lieux, seront examinées et jugées en dernier ressort par la Commission chargée de la pose des bornes, soit que les propriétaires actuels préfèrent demeurer en possession de leurs terres et de leurs droits en se soumettant, dans un délai fixé, à tous les impôts et à toutes les

charges, à l'instar des autres habitants de la localité, soit qu'ils aiment mieux aliéner leurs terres et leurs droits contre une indemnité équitablement arbitrée par ladite Commission.

Fait à Constantinople, le 8 Novembre [27 Octobre], 1858.

AALI.
FUAD.
MEHEMED RUCHDI.
LUDOLPH.
THOUVENEL.
H. L. BULWER.
LICHMANN.
BOUTENEFF.

ARRANGEMENT entre la France et le Grand-Duché de Luxembourg, pour la Restitution Réciproque des Armes, Equipements Militaires et Chevaux des Déserteurs des Deux Pays, arrêtés sur les Territoires respectifs.—Signé à La Haye, le 29 Mai, et à Luxembourg, le 19 Juin, 1858.

M. LE MINISTRE, *La Haye, le 19 Juin, 1858.*

J'AI l'honneur de vous informer qu'en vertu de l'autorisation de Sa Majesté le Roi Grand-Duc, le Gouvernement du Grand-Duché de Luxembourg consent à l'arrangement suivant, concernant la restitution des armes et équipements des déserteurs des deux pays, et que des ordres viennent d'être donnés afin que cet arrangement soit exécuté à partir de ce jour :

1°. Lorsque les militaires de la France ou du Grand-Duché de Luxembourg déserteront de leur pays natal pour passer la frontière, les deux Gouvernements saisiront les effets militaires emportés par le déserteur et les restitueront à l'Etat auquel il appartient.

2°. Seront compris parmi les effets militaires qui devront être saisis et restitués les armes d'ordonnance ainsi que les effets d'armement de toute espèce, les chevaux et leur équipage, les tambours et les instruments de musique, les effets de grand équipement.

3°. Resteront exempts de saisie et de restitution les effets d'habillement et de petit équipement, lesquels seront laissés au déserteur pour s'en servir ultérieurement.

4°. Le Gouvernement qui surprendra, sur son territoire, un déserteur de l'Etat voisin, en donnera immédiatement avis, par voie diplomatique, à l'autre Gouvernement. Cette communication renfermera le nom et le signalement du déserteur avec l'indication du corps d'armée d'où il a déserté ; un état des effets militaires trouvés en sa possession avec indication de ceux qui pourront encore servir et de ceux qui sont usés ou détériorés ; l'énumération des effets

d'habillement et de petit équipement qui pourront être laissés au déserteur pour son propre usage; des renseignements sur les effets d'armement que le déserteur aurait vendus, ainsi que sur le prix qu'il en aurait tiré et sur la personne de l'acheteur.

5°. Lorsque, sur la communication sus-mentionnée, le Gouvernement de l'Etat auquel appartient le déserteur, aura demandé la remise des objets saisis ou de quelques-uns d'entre eux, les objets réclamés seront mis à la disposition du Gouvernement réclamant et déposés à Thionville par les autorités Françaises pour les déserteurs Luxembourgeois, et à Luxembourg par les autorités Luxembourgeoises pour les déserteurs Français; ce dépôt sera fait chez le commandant de place ou, s'il n'y en a pas, chez le commandant de la gendarmerie.

Il en sera donné un reçu détaillé.

6°. Les frais occasionnés par le transport des effets à la place do dépôt resteront à la charge de l'Etat sur le territoire duquel le déserteur aura été arrêté. Le Gouvernement dont le déserteur est sujet devra les y faire prendre à ses propres frais.

7°. Les dépenses faites pour la nourriture des chevaux saisis seront remboursées par le Gouvernement de l'Etat auquel le déserteur appartiendra. Veuillez, &c.

SIMONS.

ARRANGEMENT entre la France et la Prusse, pour la Restitution Réciproque des Armes, Equipements Militaires, et Chevaux des Déserteurs des Deux Pays, arrêtés sur les Territoires respectifs.—Conclu à Berlin, les $\frac{7}{19}$ Juin, 1858.

M. LE MARQUIS, *Le* 21 *Juin*, 1858.

J'AI l'honneur de vous accuser par la présente la réception de votre note du 7 courant par laquelle vous avez bien voulu constater l'adhésion définitive de votre Gouvernement à l'arrangement concerté au sujet de la restitution réciproque des armes et équipements des déserteurs des deux pays.

Je m'empresse de répondre à cette note au nom du Gouvernement du Roi, mon auguste maître, par la déclaration identique dont voici les termes.

Les deux Gouvernements se sont entendus sur les points suivants:

1°. Lorsque les militaires de la France ou du Grand-Duché de Luxembourg déserteront de leur pays natal pour passer la frontière, les deux Gouvernements saisiront les effets militaires emportés par le déserteur et les restitueront à l'Etat auquel il appartient.

2°. Seront compris parmi les effets militaires qui devront être saisis et restitués les armes d'ordonnance ainsi que les effets d'armement de toute espèce, les chevaux et leur équipage, les tambours et les instruments de musique, les effets de grand équipement.

3°. Resteront exempts de saisie et de restitution les effets d'habillement et de petit équipement, lesquels seront laissés au déserteur pour s'en servir ultérieurement.

4°. Le Gouvernement qui surprendra, sur son territoire, un déserteur de l'Etat voisin, en donnera immédiatement avis, par voie diplomatique, à l'autre Gouvernement. Cette communication renfermera le nom et le signalement du déserteur avec l'indication du corps d'armée d'où il a déserté ; un état des effets militaires trouvés en sa possession avec indication de ceux qui pourront encore servir et de ceux qui sont usés ou détériorés ; l'énumération des effets d'habillement et de petit équipement qui pourront être laissés au déserteur pour son propre usage ; des renseignements sur les effets d'armement que le déserteur aurait vendus, ainsi que sur le prix qu'il en aurait tiré et sur la personne de l'acheteur.

5°. Lorsque, sur la communication sus-mentionnée, le Gouvernement de l'Etat auquel appartient le déserteur, aura demandé la remise des objets saisis ou de quelques-uns d'entre eux, les objets réclamés seront mis à la disposition du Gouvernement réclamant et déposés à Forbach par les autorités Françaises pour les déserteurs Luxembourgeois, et à Luxembourg par les autorités Luxembourgeoises pour les déserteurs Français ; ce dépôt sera fait chez le commandant de place ou, s'il n'y en a pas, chez le commandant de la gendarmerie.

Il en sera donné un reçu détaillé.

6°. Les frais occasionnés par le transport des effets à la place de dépôt resteront à la charge de l'Etat sur le territoire duquel le déserteur aura été arrêté. Le Gouvernement dont le déserteur est sujet devra les y faire prendre à ses propres frais,

7°. Les dépenses faites pour la nourriture des chevaux saisis seront remboursées par le Gouvernement de l'Etat auquel le déserteur appartiendra.

L'adhésion des deux Gouvernements aux conditions ci-dessus énumérées étant constatée par l'échange de part et d'autre de notes identiques, les ordres nécessaires seront donnés par le Gouvernement du Roi aussitôt que possible pour que cet arrangement soit mis en vigueur.

En vous priant, M. le Marquis, d'interposer votre bienveillante entremise afin qu'il en soit de même de la part de votre Gouvernement, j'ai, &c.

MANTEUFFEL.

ARRANGEMENT entre la France et la Bavière, pour la Restitution Réciproque des Armes, Equipements Militaires, et Chevaux des Déserteurs des Deux Pays, arrêtés sur les Territoires respectifs.—Conclu à Munich, les 18 *Mai,* 27 *Août,* 1858.

M. LE BARON, *Le* 18 *Mai,* 1858.

J'AI rendu compte à mon Gouvernement de l'approbation que le Gouvernement de Sa Majesté le Roi de Bavière a bien voulu donner à la proposition que j'avais été chargé de faire à votre Excellence concernant la restitution réciproque des armes et équipements des déserteurs des deux pays. Afin de consacrer cet accord et d'en régler les conditions, j'ai reçu l'ordre du Gouvernement de l'Empereur de constater par la présente dépêche que les deux Gouvernements se sont entendus sur les points suivants :

1°. Lorsque des militaires de la France ou de la Bavière déserteront de leur pays natal pour passer la frontière, les deux Gouvernements saisiront les effets militaires emportés par le déserteur et les restitueront à l'Etat auquel il appartient ;

2°. Seront compris parmi les effets militaires qui devront être saisis et restitués : les armes d'ordonnance ainsi que les effets d'armement de toute espèce ; les chevaux et leur équipage ; les tambours et les instruments de musique ; les effets de grand équipement.

3°. Resteront exempts de saisie et de restitution les effets d'habillement et de petit équipement, lesquels seront laissés au déserteur pour s'en servir ultérieurement.

4°. Le Gouvernement qui surprendra sur son territoire un déserteur de l'Etat voisin en donnera immédiatement avis, par voie diplomatique, à l'autre Gouvernement. Cette communication renfermera :

Le nom et le signalement du déserteur avec l'indication du corps d'armée d'où il a déserté, un état des effets militaires trouvés en sa possession avec indication de ceux qui pourront encore servir et de ceux qui sont usés ou détériorés ;

L'énumération des effets d'habillement et de petit équipement qui pourront être laissés au déserteur pour son propre compte ;

Des renseignements sur les effets d'armement que le déserteur aurait vendus, ainsi que sur le prix qu'il en aura tiré et sur la personne de l'acheteur.

5°. Lorsque, sur la communication susmentionnée le Gouvernement de l'Etat auquel appartient le déserteur aura demandé la remise des objets saisis ou de quelques-uns d'entr'eux, les objets

réclamés seront mis à la disposition du Gouvernement réclamant et déposés à Bitche (Moselle) par les autorités Françaises pour les déserteurs Bavarois, et à Deux-Ponts par les autorités Bavaroises pour les déserteurs Français. Ce dépôt sera fait chez le commandant de place, et, s'il n'y en a pas, chez le commandant de gendarmerie. Il en sera donné un reçu détaillé.

6°. Les frais occasionnés par le transport des effets à la place de dépôt resteront à la charge de l'Etat sur le territoire duquel le déserteur aura été arrêté. Le Gouvernement dont le déserteur est sujet devra les y faire prendre à ses propres frais.

7°. Les dépenses faites pour la nourriture des chevaux seront remboursées par le Gouvernement de l'Etat auquel le déserteur appartiendra.

Si, comme je le suppose, le Gouvernement Bavarois accorde son entière adhésion aux conditions ci-dessus énumérées, je prie votre Excellence de vouloir bien la consigner dans une dépêche qui consacrera la parfaite réciprocité de cette entente ainsi que des obligations mutuelles qu'elle implique. Le Gouvernement de Sa Majesté Impériale n'attend pour mettre cet arrangement en vigueur, en ce qui le concerne, que la réponse du Gouvernement de Sa Majesté le Roi de Bavière à la présente communication.

Veuillez, &c.

COMTE DE MASSIGNAC.

ACTE ADDITIONNEL entre la France et l'Espagne, pour sanctionner le Règlement International sur l'Exercice de la Pêche et les divers Arrangements relatifs à la Bidassoa.—Conclu à Bayonne, le 31 *Mars,* 1859.

Un règlement pour la pêche dans la Bidassoa, ayant été élaboré par les délégués des municipalités riveraines en exécution de l'Article XXII du Traité de Bayonne du 2 Décembre, 1856:* le payement de l'indemnité due, à Fontarabie, pour le barrage de la nasse, ayant également été effectué, et l'enlèvement de cette nasse ayant en conséquence eu lieu suivant les prescriptions des Articles XXIII et XXIV dudit Traité;

Les Plénipotentiaires de France et d'Espagne, dûment autorisés, sont convenus de réunir dans le présent document les 8 Actes contenant les dispositions adoptées d'un commun accord pour compléter le susdit Traité en ce qui concerne la Bidassoa, actes dont la teneur suit.

* Vol. LVII. Page 766.

I. *Règlement pour la Pêche dans la Bidassoa, arrêté le 1er Juin*, 1858, *dans l'Ile des Faisans, entre les Délégués des Municipalités Françaises et Espagnoles riveraines.*

Les délégués soussignés, nommés en vertu de l'Article XXII du Traité de délimitation, du 2 Décembre, 1856, savoir, du côté de la France, par les municipalités d'Urrugne, de Hendaye et de Biriatou, et, du côté de l'Espagne, par les municipalités de Fontarabie et d'Irun, et au nom de ces deux communes, par le Commandant de la Marine de Saint-Sébastien, ont établi d'un commun accord le présent règlement de pêche, pour donner, conformément aux Articles XII, XXI et XXII du susdit Traité, aux frontaliers des deux rives de la Bidassoa, des droits identiques sur tout le cours de cette rivière, à son embouchure, et dans la rade du Figuier, pour prévenir la destruction du poisson et pour maintenir le bon ordre et les bonnes relations, en consacrant des droits, des usages et coutumes reconnus et existants depuis longtemps.

Droit de Pêche.

ART. I. Le droit de pêche dans la Bidassoa, depuis Chapitelaco-Arria ou Chapitaco-Erreca, à son embouchure et dans la rade du Figuier, appartient exclusivement et indistinctement, en France, aux habitants d'Urrugne, de Hendaye et de Biriatou, et en Espagne, aux habitants de Fontarabie et d'Irun.

Lesdits habitants pourront pêcher avec toute sorte d'embarcations et continueront, sans être tenus de justifier de leur inscription sur les matricules maritimes de leur pays respectif, à exercer, sur tous les points de la rivière couverts par la haute marée, des droits identiques pour la pêche et pour tous les amendements marins, sans être soumis à d'autres dispositions ou restrictions qu'à celles résultant du présent règlement.

II. Les riverains des deux pays pourront à leur convenance, retirer et asséner leurs filets, soit sur la rive Française, soit sur la rive Espagnole ; mais, dans aucun cas, sur une propriété particulière, sans autorisation du propriétaire ; et, selon l'usage existant, tous les produits de la pêche pourront être introduits en franchise dans chacun des deux pays.

III. La pêche à la ligne flottante continuera par exception, comme par le passé, à être libre pour tous, à la réserve de l'époque du frai.

Époques pour les différentes Pêches ; Dimensions des diverses espèces de Poissons et de Coquillages.

IV. La pêche de l'anguille, de la lamproie, de la plie et du muge est permise en tout temps.

Elle est interdite : Pour le saumon et la truite saumonnée, depuis

la fin d'Août jusqu'au 1er Fevrier; pour la truite, depuis le 20 Octobre jusqu'au 31 Janvier; pour l'alose, depuis la fin de Mars jusqu'au 1er Juin; pour les poissons dont il n'est pas fait mention, depuis le 15 Mars jusqu'au 1er Mai; pour les huîtres, depuis le 30 Avril jusqu'au 1er Septembre; pour les moules, depuis le 30 Avril jusqu'au 1er Juillet.

La pêche des huîtres et des moules sera toujours défendue entre le coucher et le lever du soleil.

V. Il est interdit de pêcher ou de recueillir, de quelque manière que ce soit, les œufs de tous les poissons, et ceux des crustacés, et de les employer comme appâts.

VI. Il est interdit de pêcher les poissons qui n'ont pas la longueur suivante, entre l'œil et la naissance de la queue.

Le saumon qui n'a pas la longueur de 27 centimètres;

La truite saumonnée qui n'a pas la longueur de 27 centimètres;

L'anguille qui n'a pas la longueur de 27 centimètres;

L'alose qui n'a pas la longueur de 27 centimètres;

Le turbot qui n'a pas la longueur de 20 centimètres.

Et tous les autres poissons qui n'ont pas atteint la longueur de 16 centimètres.

Mais les poissons qui n'atteignent jamais la longueur de 16 centimètres pourront être pris en tout temps, et quelque soit leur grandeur.

Il est aussi interdit de recueillir les huîtres qui n'ont pas 5 centimètres de diamètre dans leur plus grande largeur, et les moules qui n'ont pas 3 centimètres de diamètre.

Tous les autres coquillages pourront être pêchés quelque soit leur dimension.

VII. Les pêcheurs seront tenus de jeter en rivière les poissons désignés dans l'Article précédent et qui n'ont pas atteint la longueur voulue, et de laisser les huîtres et les moules qui n'ont pas le diamètre fixé au même lieu où ils les ont recueillies.

Amendements Marins.

VIII. Selon l'usage existant, tous les riverains indistinctement continueront à prendre, sur tous les points du cours de la Bidassoa baignés par la haute marée, toutes les herbes marines excepté celles qui sont adhérentes aux baradeaux des terres labourées, et qui appartiennent exclusivement aux propriétaires de ces terres. Ils continueront aussi à prendre les sables coquilliers, vases et autres amendements marins, sur ces mêmes points, qui resteront à découvert aux basses eaux; mais ils ne pourront les enlever qu'à une distance de 10 mètres des baradeaux, des digues et des berges, et à 8 mètres des parcs à huîtres et à moules, des dépôts quelconques de coquillages

et des viviers à poissons, dont il sera fait mention dans un des Articles suivants.

Filets, Instruments, Procédés et Modes de Pêche permis.

IX. Pour la pêche du saumon, de l'alose et de la truite saumonnée, le seul filet permis sera le filet simple dont on se sert aujourd'hui, et dont les mailles du milieu ont au moins en carré 57 millimètres, et les mailles des rets des deux côtés au moins 70 millimètres.

Pour la pêche du muge, de la plie, de la sole, du turbot et de la truite ordinaire, les mailles du filet devront avoir au moins 20 millimètres en carré, et, pour la pêche de l'anguille et tous les poissons de petite espèce, au moins 15 millimètres.

Pour la pêche de ces petits poissons on pourra aussi faire usage de berteaux ayant des mailles de mêmes dimensions, mais tendus dans l'eau sans aucun barrage sur les côtés.

Les mailles des filets et berteaux autorisés devront présenter les dimensions fixées pour chaque espèce, lorsque lesdits filets seront mouillés.

X. Selon la coutume établie depuis longtemps, 8 jours avant l'ouverture de la pêche du saumon, tous les riverains indistinctement qui auront le filet réglementaire pour la pêche de ce poisson tireront au sort, devant leurs autorités respectives, leur tour de pêche, et, à chaque marée, suivant l'ordre des tours, un Français et un Espagnol seulement auront le droit de pêcher le saumon dans toute l'étendue de la Bidassoa qui sert de limite aux deux nations. Si, par une raison quelconque, les pêcheurs des deux pays ne pouvaient pas s'entendre pour faire la pêche en commun comme cela se pratique aujourd'hui, les Français seuls jetteraient leurs filets à une marée, et les Espagnols seuls, à la suivante, et ainsi de suite.

XI. Il est expressément défendu, 1° de faire usage, sur la Bidassoa, des filets non-mentionnés, dans l'Article IX; 2° de se servir des filets mentionnés, sans qu'ils soient revêtus des plombs ou marques qui seront adoptés par les autorités respectives, et de les employer pour d'autres pêches que celles pour lesquelles l'usage de chacun de ces filets est permis; 3° de jeter dans la rivière des drogues ou appâts qui sont de nature à enivrer ou à détruire le poisson, et de le faire fuir, pour qu'il donne dans les filets ou instruments de pêche, en battant l'eau ou en l'épouvantant de toute autre manière; 4° de colporter et de débiter les poissons et coquillages qui n'auraient pas les dimensions déterminées dans l'Article VI ou qui auraient été pêchés en temps prohibé; 5° de pêcher à l'aide d'instruments piquants, tels que tridents, et avec des lignes dormantes ou de fond; 6° de barrer la rivière avec des filets quelconques et d'employer tout appareil qui aurait pour objet de détourner les eaux, d'empêcher le passage des poissons ou de nuire au repeuplement de la rivière.

XII. Sous quelque prétexte que ce soit, il est défendu de crocher ou de soulever les filets ou autres instruments de pêche appartenant à autrui.

Dépôts de Coquillages, Viviers à Poissons.

XIII. Les riverains peuvent pêcher indistinctement, dans toutes les parties de la Bidassoa que couvrent les hautes marées, toutes espèces de coquillages; mais ils ne pourront construire des établissements de pêcheries à demeure ou temporaires, des parcs à huîtres ou à moules et des dépôts quelconques de coquillages, sans l'autorisation de la municipalité dans la juridiction de laquelle il s'agirait de les faire, et sans se soumettre aux conditions qui leur seront imposées.

L'autorisation ainsi donnée sera révocable et ne pourra jamais être considérée comme une concession, et si elle est retirée pour inexécution des conditions imposées, l'établissement sera toujours détruit aux frais du contrevenant.

Ces parcs ou dépôts ne devront, dans aucun cas, gêner la navigation, ni servir de pêcherie à poisson, et devront avoir au moins une distance de 100 mètres de l'un à l'autre.

XIV. Pour le repeuplement des eaux de la Bidassoa, les pêcheurs Français et Espagnols pourront établir, sur l'une ou sur l'autre rive de ladite rivière, mais seulement d'un commun accord et à frais communs, des viviers qui ne pourront servir qu'à la propagation du poisson, et ne devront, dans aucun cas, gêner la navigation.

Police et Surveillance de la Pêche.

XV. Pour la surveillance de la jouissance en commun de la Bidassoa, un garde sera nommé par les municipalités d'Urrugne, de Hendaye et de Birriatou, et un autre par les municipalités de Fontarabie et d'Irun. Ces deux gardes-pêche dont le salaire sera déterminé et à la charge des municipalités qui les auront nommés veilleront isolément et collectivement au maintien de l'ordre et à l'exécution des dispositions du règlement. Ces gardes seront assermentés et revêtus d'une bandoulière avec plaque indiquant leur qualité.

XVI. Les contraventions au présent règlement seront prouvées, soit par procès-verbaux, soit par témoins. Les procès-verbaux seront dressés par les deux gardes dont il est fait mention dans l'Article précédent, et devront être signés par eux. Ces deux gardes seront autorisés à saisir les filets et autres instruments de pêche prohibés, ainsi que le poisson pêché en contravention.

Lesdits gardes pourront requérir directement la force publique pour la répression des contraventions au présent règlement, ainsi

que pour la saisie des filets prohibés et du poisson et du coquillage pêchés en contravention.

Les infractions relatives au cas de vente et de colportage du frai, du poisson et du coquillage pris en temps prohibé, ou au-dessous des dimensions prescrites, pourront également être constatées par tout officier de police judiciaire.

Dispositions Pénales.

XVII. Afin qu'il y ait identité effective de droits pour tous les riverains, il faut qu'il y ait identité de répression pour les contrevenants des deux pays qui auront violé les mesures adoptées pour réglementer, conformément au susdit Traité, la jouissance en commun de la Bidassoa.

Dans les deux pays, le tribunal ou les autorités compétentes seront en conséquence appelées à prononcer, pour les faits de contravention au présent règlement, contre les pêcheurs soumis à leur juridiction: 1° la saisie et la destruction des filets ou autres instruments de pêche défendus; 2° l'amende depuis 5 francs (19 réaux) jusqu'à 40 francs (152 réaux), ou l'emprisonnement pendant deux jours au moins et 10 jours au plus.

XVIII. Dans tous les cas de récidive, l'infracteur sera condamné au double de l'amende ou de l'emprisonnement qui aura déjà été prononcé contre lui; mais cette double peine ne pourra jamais dépasser le maximum établi dans le paragraphe 2 de l'Article précédent. Il y a récidive lorsque, dans les 12 mois précédents, il a été rendu contre l'infracteur un premier jugement pour contravention aux dispositions du présent règlement.

Si, dans les 12 mois précédents, il a été rendu contre l'infracteur deux jugements pour contravention aux dispositions du règlement, l'amende, ou l'emprisonnement pourront être portés au double du maximum fixé dans l'Article précédent.

XIX. Le tribunal ou les autorités compétentes ordonneront, lorsqu'il y aura lieu, en sus de la peine infligée pour fait de contravention au présent règlement, le payement de dommages-intérêts en faveur de qui de droit, et ils en détermineront le montant.

XX. Tout riverain qui pêchera le saumon en dehors de son tour de pêche sans l'autorisation de celui à qui il revient sera passible de l'amende ou de l'emprisonnement établi dans le paragraphe 2 de l'Article XVII, et, de plus, devra restituer le poisson pris en contravention ou sa valeur au pêcheur dont il aura pris le tour. En cas de récidive, il pourra être condamné à l'amende ou à l'emprisonnement, et de plus la confiscation des filets pourra être prononcée.

XXI. Le poisson saisi pour contravention aux dispositions du

présent règlement sera immédiatement distribué aux pauvres de la commune riveraine dans laquelle la saisie aura été faite.

XXII. Le produit des amendes prononcées en vertu du présent règlement sera versé, dans l'un et l'autre pays, dans les caisses municipales, et le quart en sera attribué aux gardes-pêche ou à l'agent de police municipale qui aura constaté la contravention.

XXIII. Les pères, mères, maris et maîtres pourront être déclarés responsables des amendes prononcées pour contraventions commises par leurs enfants mineurs, leurs femmes ou leurs serviteurs.

XXIV. Tout riverain qui aura outragé un garde dans l'exercice de ses fonctions, ou qui lui aura résisté avec violence et voies de fait, sera puni des peines portées pour ce cas dans le Code pénal de son pays.

XXV. Le garde qui dans l'exercice de ses fonctions fera preuve de négligence sera immédiatement révoqué, et s'il a agréé des promesses ou reçu des présents pour manquer à ses devoirs, il sera poursuivi d'après les dispositions prévues pour ce cas dans la législation de son pays.

Répression des Contraventions.

XXVI. Le jugement de toute contravention au présent règlement sera placé, dans l'un et l'autre pays, dans les attributions exclusives du tribunal ou des autorités compétentes, et les contrevenants ne pourront être poursuivis que devant le tribunal ou les autorités compétentes de leur pays respectif.

XXVII. Les procès-verbaux qui constateront des contraventions au présent règlement devront être remis au maire ou à l'alcade sous la juridiction duquel se trouve le contrevenant, et le maire ou l'alcade, après les avoir visés, devra, sans délai, les faire enregistrer et y donner suite.

XXVIII. Les deux gardes-pêche, étant chargés par l'Article XV de veiller isolément ou collectivement à l'exécution du présent règlement, pourront constater les contraventions de tous les riverains, quelle que soit leur nationalité ; mais les contrevenants ne pouvant être jugés que par le tribunal ou les autorités compétentes de leur pays ; le procès-verbal dressé par le garde Français contre un Espagnol, après avoir été visé par le maire de l'une des trois communes riveraines Françaises, sera envoyé par lui en Espagne à l'alcade sous la juridiction duquel se trouve l'inculpé. De même le procès-verbal dressé par le garde Espagnol contre un Français, après avoir été visé par l'alcade de Fontarabie ou d'Irun, sera transmis par lui au maire sous la juridiction duquel se trouve le contrevenant, et il devra être donné suite à ces procès-verbaux, comme il est dit dans l'Article précédent.

XXIX. Les procès-verbaux dressés, soit isolément, soit collectivement, par les deux gardes désignés ci-dessus, contre tous les riverains indistinctement, feront foi jusqu'à preuve contraire.

XXX. Sans préjudice des droits appartenant au ministère public, la poursuite des contraventions aux dispositions du présent règlement se fera à la diligence des maires ou des alcades et sur la plainte de la partie civile.

XXXI. L'action publique et l'action civile résultant des contraventions prévues dans le présent règlement seront prescrites après 30 jours révolus, à compter du jour où le fait aura eu lieu.

Dispositions Transitoires.

XXXII. Le présent règlement sera exécutoire à partir du 1er Janvier de l'année qui suivra celle où il aura été promulgué. Jusque-là on continuera à se conformer à tous les usages existants; seulement les dispositions relatives aux époques de pêche, aux dimensions que doivent avoir les différents poissons, et aux prohibitions faites par les paragraphes 3, 4, 5 et 6 de l'Article XI, seront exécutoires depuis le jour où la promulgation aura eu lieu. Un an sera accordé à partir du jour de la promulgation de ce règlement pour se conformer aux dispositions de l'Article IX, qui indique les dimensions des mailles des différents filets autorisés.

XXXIII. Aucun changement ne pourra être fait au présent règlement, si ce n'est sur la proposition et avec l'accord d'un nombre égal de délégués des municipalités des deux rives de la Bidassoa et avec l'approbation des autorités supérieures respectives.

En foi de quoi, les délégues respectifs ont signé le présent règlement de pêche, fait en double, dans l'ile des Faisans, le 1er Juin de l'an 1858.

H. DE LABRALDE DIUSTEGUY.
J. LISSARDY.
P. LAPEYRE.
MELITON DE RAMERY.
POLICARPO DE BALZOLA.
J. M. ECHENAGUSIA.

ARTICLE ADDITIONNEL.

Le précédent règlement établi en vertu de l'Article XXII du Traité de Bayonne, et les changements qui pourront y être introduits ultérieurement de la manière prévue par son Article XXXIII, seront promulgués, dans l'un et l'autre pays, conformément à leurs constitutions respectives.

Fait en double original, à Bayonne, le 31 Mars de l'an 1859.

V. LOBSTEIN. MARIN.
GENERAL CALLIER. MONTEVERDE.

II. *Procès-verbal du* 31 *Mars*, 1859, *constatant l'enlèvement de la Nasse de Fontarabie.*

III. *Déclaration du* 31 *Mars*, 1859, *relative au Balisage et au Pilotage de la Bidassoa.*

Les Plénipotentiaires de France et d'Espagne, réunis à Bayonne pour la délimitation de la frontière entre les deux pays, considérant :

Qu'il importe à la sûreté de la navigation sur la Bidassoa que le service du pilotage et du balisage s'effectue dans les meilleurs conditions à l'entrée de cette rivière ;

Que la ville de Fontarabie se trouve seule en mesure, par sa position et par ses ressources spéciales, de pourvoir actuellement à ce service d'une manière satisfaisante ;

Qu'en fait Fontarabie s'en est acquittée exclusivement jusqu'à ce jour ;

Les susdits Plénipotentiaires, d'après la proposition du Gouvernement de Sa Majesté Catholique et l'acceptation du Gouvernement de Sa Majesté l'Empereur des Français, ont arrêté la déclaration ci-après :

1° La ville de Fontarabie est maintenue pendant 15 ans, à partir du 1er Janvier, 1859, dans l'usage de fournir les pilotes et de placer les balises pour la sûreté de l'entrée et de la navigation de la Bidassoa.

2° Elle continuera de percevoir, pour ce double service, les droits qui sont établis.

3° Il est expressément entendu que cette concession faite à la ville de Fontarabie n'est que temporaire, et que la France conserve la faculté de réclamer pour le pilotage et le balisage de la Bidassoa, à l'expiration du susdit terme de 15 ans, la parfaite égalité de droits

Après s'être respectivement communiqué leurs pleins-pouvoirs, trouvés en bonne et due forme, considérant que l'armistice conclu le 8 Juillet dernier entre les commandants-en-chef des armées belligérantes, expire le 15 du courant; considérant en outre que les négociations qui s'ouvrent aujourd'hui pour transformer en Traités définitifs, les préliminaires de paix signés le 11 Juillet, à Villafranca, ne pourront être terminées avant le 15 Août, et qu'il y a lieu dès lors, conformément à tous les précédents, de prolonger la durée de l'armistice, les Plénipotentiaires sont convenus que l'armistice du 8 Juillet serait prorogé jusqu'à l'échange des ratifications des Traités à intervenir.

Ils sont en outre engagés à donner immédiatement avis de cette décision à leurs Gouvernements qui prendront, à cet égard, toutes les mesures indiquées par la situation respective de leurs armées de terre et de mer.

COLLOREDO. BOURQUENEY. DES AMBROIS.
MEYSENBUG. BONNEVILLE. JOCTEAU.

NOTE VERBALE relative au refus de l'Autriche d'abandonner les Forteresses de Peschiera et de Mantoue.—Signée à Zurich, le 17 *Octobre,* 1859.

Les Plénipotentiaires de France n'adhéraient pas seulement au vœu qui leur avait été exprimé par leurs collègues de Sardaigne, ils agissaient dans l'esprit de leurs propres instructions en s'efforçant d'amener les Plénipotentiaires de l'Autriche à consentir à l'abandon des forteresses de Peschiera et de Mantoue, moyennant des conditions pécuniaires à débattre entre l'Autriche et le nouveau Gouvernement de la Lombardie.

Leurs efforts ont échoué contre la volonté fermement exprimée, au nom de leur Cour, par les Plénipotentiaires de l'Autriche, de ne pas accepter la discussion sur une transaction de cette nature.

Les Plénipotentiaires de France étaient également chargés de réclamer de leurs collègues d'Autriche la Couronne de fer déposée à Monza et transportée à Vérone dans le cours de la dernière guerre. Ils ont plaidé, mais sans succès, la cause qu'ils avaient à défendre, et ils s'empressent d'ajouter que la note verbale de Messieurs les Plénipotentiaires Sardes leur fournissait des arguments formulés avec autant de logique que de convenance et de délicatesse.

Les objections des Plénipotentiaires Autrichiens, objections ont il n'a pas été possible de triompher, reposent sur ce fait que

la Couronne de fer servait à Milan au couronnement des Empereurs d'Autriche, comme Rois du Royaume Lombardo-Vénitien.

L'emblème de la Souveraineté intégrale ne se perdait pas selon eux, avec une partie de cette même Souveraineté, MM. de Colloredo et de Meysenbug ont invoqué le texte de la patente Impériale du 7 Avril, 1815, et notamment le paragraph 3.

De même que les Plénipotentiaires Sardes désavouaient, dans leur réclamation, toute idée blessante pour les susceptibilités de la famille Impériale d'Autriche, les Plénipotentiaires Autrichiens ont énergiquement repoussé dans leur refus jusqu'à l'apparence d'une arrière-pensée politique ou d'un calcul d'avenir.

Zurich, 17 Octobre, 1859.

PROTOCOLE réservé entre les Plénipotentiaires de France et d'Autriche, déclarant la Renonciation de l'Autriche au Droit de Garnison dans les Forteresses de Plaisance, de Ferrare, et de Comacchio.—Signé à Zurich, le 10 *Novembre,* 1859.

PRESENTS: Les Plénipotentiaires de France et d'Autriche.

Les dispositions du Traité de Paix signé, en date de ce jour, entre la France et l'Autriche, ayant constitué sur des bases nouvelles, les relations des divers Etats de l'Italie, les Plénipotentiaires d'Autriche ont déclaré que l'intention de leur Souverain était de renoncer au droit de garnison des forteresses de Plaisance, de Ferrare, et de Comacchio, tel qu'il avait été stipulé par l'Acte final du Congrès de Vienne et par le Traité de Paris du 10 Juin, 1817.*

Les Plénipotentiaires Français ont pris acte de cette déclaration.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Zurich, le 10 Novembre, 1859.

BOURQUENEY. KAROLYI.
BANNEVILLE. MEYSENBUG.

PROTOCOLE entre les Plénipotentiaires de France et d'Autriche, renouvelant les Conventions existantes avant la Guerre.—Signé à Zurich, le 10 *Novembre,* 1859.

PRESENTS: Les Plénipotentiaires de France et d'Autriche.

Les Soussignés, au nom de leurs Gouvernements respectifs, déclarent remises en vigueur, à partir de l'échange des ratifications du Traité conclu en date de ce jour, les conventions existantes entre

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la France et l'Autriche avant l'ouverture des hostilités et auxquelles il n'a pas été dérogé par ledit Traité.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Zurich, le 10 Novembre, 1859.

BOURQUENEY. KAROLYI.
BANNEVILLE. MEYSENBUG.

PROTOCOLE entre les Plénipotentiaires de France et d'Autriche, déclarant les Provinces Italiennes de l'Autriche, qui auront à faire partie de la Confédération Italienne.—Signé à Zurich, le 10 *Novembre,* 1859.

PRESENTS: Les Plénipotentiaires de France et d'Autriche.

Dans le but de ne laisser subsister aucun doute sur la portée de l'engagement pris par Sa Majesté Impériale et Royale Altesse de favoriser, d'un commun accord avec Sa Majesté l'Empereur des Français, la création d'une Confédération Italienne, les Plénipotentiaires d'Autriche déclarent qu'il est bien entendu que les Provinces Italiennes de Sa Majesté Impériale et Royale Altesse qui auront à faire partie de la Confédération Italienne, se composent du Royaume Vénitien, dans ses limites actuelles, et de la partie de la Lombardie réservée à la Couronne Impériale par le Traité de Paix du 10 Novembre, 1859, et qu'aucune propriété, ni aucun territoire, possédés par Sa Majesté Impériale en dehors desdits pays, ne pourront être revendiqués pour la Confédération en question.

Les Plénipotentiaires Français ont pris acte de cette déclaration.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Zurich, le 10 Novembre, 1859.

BOURQUENEY. KAROLYI.
BANNEVILLE. MEYSENBUG.

PROTOCOLE de la Conférence, au Sujet des Circonscriptions Diocésaines en Lombardie.—Signé à Zurich, le 10 *Novembre,* 1859.

PRESENTS: Les Plénipotentiaires de la France, de l'Autriche et de la Sardaigne.

Par suite de la nouvelle délimitation entre l'Autriche et la Sar-

daigne, quelques diocèses se trouvant partagés entre les deux Etats il a été convenu que la France, l'Autriche et la Sardaigne feraient en commun les démarches nécessaires auprès du Saint-Siége pour obtenir qu'il soit statué sur une nouvelle circonscription diocésaine en accord avec la délimitation territoriale des deux pays.

Les Plénipotentiaires d'Autriche ont proposé de stipuler également qu'en attendant aucune entrave ne serait apportée de part et d'autre, au maintien du *statu quo* de l'administration ecclésiastique de ces diocèses.

Les Plénipotentiaires de Sardaigne ne sont pas d'avis d'ajouter cette dernière stipulation, parce qu'on ne peut supposer que l'autorité ecclésiastique soit entravée par le Gouvernement civil dans l'exercice légitime de sa juridiction. Ils considèrent comme hors de doute que les Evêques résidant hors de la Lombardie seront respectés dans l'exercice de leurs droits dans les Provinces Sardes comme l'ont toujours été les Evêques étrangers qui ont eu sous leur autorité des portions de territoire enclavées dans les Etats de la Maison de Savoie, en se conformant au droit ecclésiastique de la Monarchie Sarde.

Les Plénipotentiaires de France et d'Autriche ont pris acte des motifs développés par MM. les Plénipotentiaires de Sardaigne.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Zurich, le 10 Novembre, de l'an 1859.

BOURQUENEY. KAROLYI. DES AMBROIS
BANNEVILLE. MEYSENBUG. JOCTEAU.



territoire cédé de la Lombardie condamnés par les tribunaux, et qui, par mesure de précaution, auraient été provisoirement transportés dans une prison ou maison de correction située en dehors de ce territoire, seront immédiatement remis au nouveau Gouvernement.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Zurich, le 10 Novembre, 1859.

BOURQUENEY.	KAROLYI.	DES AMBROIS.
BANNEVILLE.	MEYSENBUG.	JOCTEAU.

PROTOCOLE de la Conférence, au sujet de la Restitution des Dépôts Administratifs.—Signé à Zurich, le 10 *Novembre,* 1859.

PRESENTS: Les Plénipotentiaires de France, d'Autriche et de Sardaigne;

Répondant à une question posée par les Plénipotentiaires Sardes à l'égard de la restitution des dépôts administratifs compris dans la mesure de sûreté du 15 Mars, 1859, les Plénipotentiaires d'Autriche ont déclaré qu'il était entendu que ces dépôts, s'il en existe, seraient également restitués.

Les Plénipotentiaires de France et de Sardaigne ont pris acte de cette déclaration.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Zurich, le 10 Novembre de l'an 1859.

BOURQUENEY.	KAROLYI.	DES AMBROIS.
BANNEVILLE.	MEYSENBUG.	JOCTEAU.

PROTOCOLE de la Conférence, pour l'Interprétation de l'Article IV du Traité de Paix concernant la Délimitation le Long du Pô.—Signé à Zurich, le 21 *Novembre* 1859.

A L'OCCASION de l'échange des ratifications du Traité de paix conclu entre la France et l'Autriche, une lecture attentive de l'Article IV de ce Traité a fait remarquer un passage dont la rédaction pourrait donner lieu à un malentendu ou, du moins, à une interprétation équivoque.

Dans ce paragraphe, qui commence par les mots: "Cette zône sera déterminée par une circonférence," il est dit: "la frontière

suivra le thalweg de la rivière (Mincio) jusqu'à Le Grazie, s'étendra de Le Grazie en ligne droite jusqu'à Scarzarolo, suivra le thalweg du Pô jusqu'à Luzzara."

Selon son acception usuelle, l'expression citée ci-dessus "suivra le thalweg du Pô," voudrait dire descendra le cours du fleuve. Or, comme l'endroit Luzzara est non pas en aval mais en amont du point de Scarzarolo, l'expression "remontera le thalweg du Pô," au lieu de "suivra," semble être plus correcte et indiquer d'une manière plus positive cette partie de la nouvelle délimitation de la frontière.

Dans le but d'obvier à toute incertitude qui pourrait résulter de la rédaction adoptée dans le Traité et de rétablir dans toute sa clarté le sens qui doit être attaché au passage susdit de l'Article IV, les Plénipotentiaires de France et d'Autriche sont convenus de consigner dans ce protocole l'explication précédente.

En foi de quoi, les Plénipotentiaires ont signé le présent protocole.

Fait à Zurich, le 21 Novembre, 1859.

BOURQUENEY.	KAROLYI.	DES AMBROIS.
BANNEVILLE.	MEYSENBUG.	JOCTEAU.

ACTE Définitif entre les Commissaires de l'Autriche, de la France, de la Grande Bretagne, de la Russie, et de la Turquie, établissant la Nouvelle Frontière entre la Russie et la Turquie en Bessarabie.—Signé à Kichineff, le $\frac{30 \text{ Mars}}{11 \text{ Avril}}$ *1857.*

En vertu de l'Article XX du Traité de Paix conclu à Paris, le $\frac{18}{30}$ Mars, 1856,* et dans le but de fixer dans ses détails le tracé de la nouvelle frontière entre l'Empire de la Russie et l'Empire de la Turquie en Bessarabie, leurs Majestés l'Empereur d'Autriche, l'Empereur des Français, la Reine du Royaume Uni de la Grande-Bretagne et d'Irlande, l'Empereur de Toutes les Russies et l'Empereur des Ottomans ont nommé pour leurs Commissaires, savoir:

Sa Majesté l'Empereur des Français, le Sieur Pierre-Marc Besson, Lieutenant-Colonel du Corps Impérial d'Etat-Major, Commandeur de l'Ordre Impérial de la Légion d'Honneur et de l'Ordre Pontifical de Saint-Grégoire le Grand, Officier de l'Ordre Impérial Ottoman du Medjidié, Compagnon du Très-Honorable Ordre du Bain;

Sa Majesté l'Empereur d'Autriche, le Sieur Antoine Kalik, Colonel du Corps Impérial et Royal de l'Etat-Major Général, Che-

* Vol. XLVI. Page 8.

valier des Ordres de Saint-Léopold de la Couronne de Fer troisième classe, de la Croix du Mérite Militaire et de Saint-Stanislas de Russie deuxième classe orné de la Couronne Impériale;

Sa Majesté la Reine du Royaume Uni de la Grand-Bretagne et d'Irlande, le Sieur Edouard Stanton, Lieutenant-Colonel du Corps Royal du Génie, Chevalier de l'Ordre Impérial de la Légion d'Honneur;

Sa Majesté l'Empereur de Toutes les Russies, le Sieur Michel Fanton de Verrayon, Général Major du Corps Impérial de l'Etat-Major Général, Chevalier des Ordres de Sainte-Anne première classe avec les Glaives, de Saint-Stanislas première classe, de Saint-Wladimir troisième classe avec les Glaives, de l'Ordre Militaire de Saint-Georges quatrième classe et de Sainte-Anne quatrième classe pour la Bravoure, et le Sieur Alexandre Baron de Stakelberg, Colonel du Corps Impérial d'Etat-Major Général, Chevalier des Ordres de Sainte-Anne deuxième classe avec les Glaives et de Saint-Stanislas troisième classe avec les Glaives;

Sa Majesté l'Empereur des Ottomans, Mouhhliss Pasca, Prince Grégoire Stourdza, Général de Division, Décoré de l'Ordre Impérial du Medjidié troisième classe, du Nichan Iftikhar et d'un Sabre d'honneur de Sa Majesté l'Empereur Abd Ul Medjid;

Lesquels, après avoir échangé leurs pleins pouvoirs trouvés en bonne et due forme, se sont constitués en Commission de délimitation à Galatz le $\frac{20\ \text{Mai}}{1\ \text{Juin}}$ 1856.

Lesdits Commissaires des 5 Puissances, après avoir fixé sur le terrain et dans tous ses détails la nouvelle frontière en se conformant, autant que la disposition des lieux l'a permis, aux prescriptions de l'Article XX du Traité susmentionné et aux stipulations ultérieures du Protocole signé à Paris, le 6 Janvier, 1857,* déclarent le tracé de cette frontière établi d'après les principes et dans les conditions ci-après:

ART. I. La ligne de démarcation qui séparera désormais en Bessarabie, depuis la mer Noire jusqu'au Pruth, les Etats de Sa Majesté l'Empereur de toutes les Russies de ceux de Sa Majesté l'Empereur des Ottomans, est marquée sur le terrain:

1°. Dans les parties sèches par une série de cônes tronqués en terre surmontés chacun d'une pierre numérotée et reliés entre eux par un fossé;

2°. Dans les parties où cette ligne suit des cours d'eau, elle est marquée par leur thalweg même.

II. Ladite ligne de démarcation est rapportée sur une carte topographique et spéciale à l'échelle de $\frac{1}{21000}$, et elle est décrite avec tous ses détails dans un cahier de spécification.

Il a été également dressé une carte générale à l'échelle de

* Vol. XLVII, Page 92.

$\frac{1}{21000}$, de tout le territoire cédé. Cette dernière carte est accompagnée d'un tableau statistique communiqué par les autorités locales et contenant l'état des villes, bourgs, villages, etc., avec indication de la quantité de terrain et de population.

III. La ligne de démarcation part de la mer Noire et de la marque de bornage No. 1, qui se trouve à 2,934 mètres (1,375 sagènes) au nord-est d'un cône en terre élevé au sommet de l'angle formé par la berge de la mer et celle du lac Bournas.

De la marque No. 1, à celle No. 16, la direction de la frontière est nord avec une légère brisure à la marque No. 8.

De la marque No. 16 à celle No. 40, la direction générale de la frontière est-ouest avec des brisures aux Nos. 17, 21 et 38; sur cette étendue la frontière traverse les ruisseaux Atkalya et Adjidéré. Au nord de cette partie de la frontière et du côté de la Russie, sont les villages de Bazi, Ryanowka supérieure, de Kebabtchi et de Diviziou; au sud et du côté de la Moldavie sont le village de Baziryanowka inférieure et le bourg de Touzly.

De la marque No. 40 à celle No. 46, la direction de la ligne est nord-ouest avec une brisure au No. 45.

De la marque No. 46 à celle No. 59, la direction de la ligne est ouest-sud-ouest avec une légère brisure au No. 55; sur cette étendue la frontière traverse le ruisseau de Sari-Yary.

De la marque No. 59 à celle No. 66, la ligne frontière suit la direction sud et traverse le ravin Sari-Yari.

De la marque No. 66 à celle No. 81 qui se trouve sur la route postale d'Akerman à Ismaïl, la direction de la frontière est ouest et elle traverse le ravin Gloubokaya; au nord de cette partie et du côté de la Russie est le village d'Akmanghit; au sud du côté de la Moldavie sont ceux de Tropoglon et de Karagatch.

Depuis la marque No. 21 jusqu'à celle No. 81 la ligne frontière coïncide avec les limites des propriétés.

De la marque No. 81 à celle No. 137, qui est située sur le val de Trajan, la direction générale de la ligne de démarcation est sud-ouest avec des brisures aux Nos. 84, 85, 89, 91, 92, 93, 95, 96, 97, 101, 107, 109, 113, 117, 119, 120, 121, 122, 126, 127 et 129. Sur cette étendue, la frontière longe la route d'Akerman à Ismaïl, elle traverse les rivières Sarata et Ko-Ghilnik; elle passe contre la partie sud du bourg de Tatar-Bounar, contre la partie nord du village de Bakchalia et elle traverse la partie nord du village de Spaskoyé. Au nord de cette partie de la frontière et du côté de la Russie sont le bourg de Tatar-Bounar et les villages de Delgélère et de Bourgoudji au sud et du côté de la Moldavie, sont les villages de Borissovka, de Bakchalia et de Tchichma.

De la marque No. 137 à celle No. 161 qui est sur la rive gauche du ruisseau Aliaga au nord, et près du confluent du ruisseau

Tachlik, la direction de la frontière est ouest avec de légères brisures aux Nos. 145, 146, 147, 150, 151, 158 et 159; sur cette étendue la frontière traverse le ruisseau Drakoulia et la vallée de Paréva et suit le val de Trajan depuis la marque No. 137 jusqu'à celle du No. 146, point à partir duquel elle longe la route d'Akerman à Ismaïl jusqu'au No. 161. Au nord de cette partie de la frontière et du côté de la Russie est le village de Sélioglou, au sud et du côté de la Moldavie est celui de Yénikieui.

De la marque No. 161 à celle No. 163 qui est sur la rive droite de l'Aliaga, la frontière est formée par le thalweg de ce ruisseau dont la direction générale est nord.

De la marque No. 163 à celle No. 245 qui se trouve sur la rive gauche du Yalpoukh au point où il est coupé par le val de Trajan, la ligne frontière suit la direction ouest avec des brisures aux Nos. 174, 186, 202, 227, 229, 232, 237, 238 et 241; sur cette étendue elle traverse les rivières du Kirgich, Kitaï, du petit Katlaboug, du grand Katlaboug, de Kaltchéva et de Karakourt. Au nord de cette partie de la frontière et du côté de la Russie sont les villages de Kod-Kitai, de Galitsa, de Kaltchéva et de Koley; au sud et du côté de la Moldavie sont des villages de Stary, Trajan, de Fontina, de Dzinilor, de Banova, de Vaïsal, de Tcherkessovy, de Karakourt, la ville de Bolgrad et enfin le village de Tabac.

Du No. 163 au No. 174, la ligne de démarcation coïncide avec la limite entre la commune de Kod-Kitaï au nord et celle de Sélioglou et de Stary, Trajan au sud; de la marque No. 186 à celle de No. 202, elle suite la limite entre les communes de Galista et de Banova.

A partir de la marque No. 227 qui est sur le val de Trajan au point où il est coupé par la rivière de Karakourt, venant de Koubey, la frontière suit ledit val de Trajan avec sa rencontre avec Yalpouth.

De la hauteur de la marque No. 245, la frontière remonte le thalweg du Yalpouk jusqu'au confluent du ruisseau Kirsaou au nord du village de Kongaz. Vis-à-vis de ce confluent se trouve la marque No. 315. Sur cette étendue la direction de la frontière est nord; à l'est de cette partie de la frontière et du côté de la Russie sont les villages de Tatar-Kaptchak, de Taraklya, de Kazaïklya et de Baourtchi; à l'ouest et du côté de la Moldavie sont les villages de Bourlatcheny, de Tchoumay, de Moussaïd, d'Allouate, de Balabanka, de Mourza, de Tchoukour, de Michène, de Bourtchak et enfin de Kongaz.

Du confluent du Kirsaou avec le Yalpouckh jusqu'à la marque No. 361, qui se trouve sur la route postale de Komrat à Kichineff par Borogany, la frontière suit le thalweg du ruisseau Kirsaou dont la direction est nord; à l'est de cette partie de la frontière et du

côté de la Russie sont les villages de Bechalma, de Kirsaou, et la ville de Komrat; à l'ouest et du côté de la Moldavie sont les villages de Kisséli, de Mare, de Kyat, de Taraklijka et de Sadyk.

A partir de la marque No. 361 et jusqu'à celle No. 379, qui se trouve dans le village de Borogani et sur la berge gauche de la rivière Yalpougel inférieur, la direction de la frontière est nord-ouest.

De la marque No. 361 sus-mentionnée à celle No. 373, la frontière suit la route postale et elle est légèrement brisée aux Nos. 364, 369, et 371; de la hauteur de la marque No. 373, qui est sur la berge gauche d'un ravin profond et jusqu'à la hauteur de la marque No. 376, la frontière suit le thalweg du ravin ci-dessus; enfin du No. 376 à celui No. 379, elle reprend de nouveau, avec de légères brisures aux Nos. 377 et 378, la route postale qui, sur cet espace, est tracée dans le village de Borogani. A l'ouest de cette partie de la frontière et du côté de Moldavie se trouve le village de Sevastianowka.

De la hauteur du No. 379 jusqu'au No. 403 qui est sur le point culminant d'un plateau séparant les eaux du Yalpougel inférieur de celles de Saratzika, la direction de la frontière est nord; le thalweg du Yalpougel inférieur forme la frontière depuis le premier de ces points jusqu'à la marque No. 396 qui est sur la route postale au point où elle coupe le dit thalweg pour la dernière fois.

De la marque No. 396 à celle No. 403, la frontière suit la route postale et elle est légèrement brisée aux points Nos. 398, 400, et 402. A l'est de cette partie de la frontière et du côté de la Russie sont les villages de Dezguindge et de Tchanak.

A partir de la marque No. 403 jusqu'à celle No. 419, qui se trouve sur la rive droite de la Saratsika et sur la route postale de Kichineff; la direction de la frontière est nord-ouest. Sur cet espace la frontière suit la route postale, qui, du No. 404 au No. 412, est tracée sur une crête très-inclinée et très-prononcée, et qui ensuite à partir du No. 414 jusqu'au No. 418, longe la berge droit d'un ravin; sur tout cet espace, la ligne de démarcation est légèrement brisée aux marques Nos. 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 415, 416, 417 et 418. A l'est de cette partie de la frontière et du côté de la Russie, est le village de Bechtamak; à l'ouest et du côté de la Moldavie est celui de Kazandjik.

A partir de la hauteur de la marque No. 419 et jusqu'à la hauteur de celle No. 449 qui est sur la berge gauche de Saratsika, la direction générale de la frontière est nord-nord-est; sur cet espace la frontière suit le thalweg de la Saratsika qui traverse le village du même nom entre les marques Nos. 438 et 443; à la hauteur de la marque No. 427, la rivière Saratsika coupe le val Trajan supérieur. A l'est de cette partie de la frontière et du côté

de la Russie sont les villages de Javgour et de Yalpougel; à l'ouest et du côté de la Moldavie sont ceux de Kougourloui et Sarateni.

A partir de la hauteur de la marque No. 449 et jusqu'à la marque No. 453 qui se trouve sur le tumulus dit Kizliar, la direction de la frontière est ouest.

A partir de la marque No. 453 et jusqu'à celle No. 468 la direction générale de la frontière est nord-nord-ouest avec des brisures aux marques No. 454, 455, 457, 461, 466. Sur cette étendue la frontière traverse la vallée et la rivière Sarata. A l'est de cette partie et du côté de la Russie se trouve le Karakoui; à l'ouest et du côté de la Moldavie est celui d'Orak.

A partir de la marque No. 468 et jusqu'à celle No. 533 qui est placée dans le bas fond de la vallée du Pruth, près de la rive gauche d'un bras mort de cette rivière appelé Koucheltcha et sur les vestiges d'un ancien rempart dit par les habitants Val de Trajan, la direction générale de la frontière est nord-ouest avec des brisures aux marques Nos. 476, 478, 482, 485, 486, 487, 488, 489, 497, 499, 501, 503, 505, 506, 518, 521, 523 et 525, laquelle est placée sur le tumulus dit Georgia. Sur cette étendue la frontière traverse les vallées Carpinianka et Tourkouloui, le bois de Sarata-Slobodzéa, la vallée et la rivière Lapouchna contre la partie nord du village Topori, le ruisseau Kalmatsoui, la vallée et la rivière Nernova; après le tumulus Georgia, elle descend rapidement dans le bas-fond marécageux de la vallée du Pruth où elle traverse plusieurs fois un des bras morts de la rivière de ce nom. Au nord de cette partie de la frontière et du côté de la Russie sont les villages de Sarata, Slobodzéa et de Carpinéni; au sud et du côté de la Moldavie sont ceux de Tchadir, de Horgechti (Formozaki), de Topori, de Kalmatsoui et de Leoucheni.

A partir de la marque No. 533 jusqu'à celle No. 538 qui est placée sur la rive gauche d'un bras mort du Pruth, dit Loucasantzy, la direction de la frontière est nord avec de très-légères brisures aux Nos. 534 et 536; sur cette étendue la frontière reste dans le bas-fond de la vallée du Pruth dont elle traverse le bras mort dit Koucheltcha. A l'est de cette partie de la frontière et du côté de la Russie, est le village de Boujora; à l'ouest et du côté de la Moldavie, est le village de Kotoumory.

A partir de la marque No. 538 et jusqu'à celle No. 543 qui est la dernière marque du bornage de la nouvelle frontière et qui se trouve sur la berge gauche du Pruth à 280 sagènes (598 mètres) en amont et à l'est du confluent de la Gigia, la direction de la frontière est ouest-nord-ouest. Sur cette étendue la frontière reste toujours dans la vallée du Pruth qui ici est marécageuse et boisée; elle coupe deux fois le bras mort du Pruth dit Loucazantzi: au nord de



comprises entre les marques de bornage impaires inclusivement et celles paires exclusivement, seront entretenues par la Russie, les parties comprises entre les marques de bornage paires inclusivement et celles impaires exclusivement seront entretenues par la Moldavie.

Le cône impair No. 419 sera aussi entretenu par la Moldavie, vu qu'il se trouve en entier sur son territoire.

Les pierres et les fossés circulaires marquant les lignes normales auxquelles sont rattachés les thalwegs du ruisseau Aliaga, de la rivière Yalpoukh, du ruisseau Kirsava, du ravin à l'est de Borogani et des rivières de Yalpougel inférieur et la Saratsika, quels que soient leurs Nos. seront entretenus par l'Etat sur le territoire duquel ces pierres et ces fossés sont établis.

Les clairières pratiquées le long de la ligne de démarcation dans les parties où elle traverse des bois ou des broussailles, seront entretenues des deux côtés par chacun des deux Etats limitrophes.

VI. Sur les cours d'eau suivis par la frontière, les habitants des deux rives, présents et à venir, conserveront le droit d'usage des eaux en commun, avec l'obligation d'entretenir aussi en commun les digues qui servent à retenir ces eaux; pendant le travail de réparation de ces digues, aucun des deux Etats limitrophes ne pourra s'opposer au libre passage des travailleurs sur la rive qui lui appartient.

Il est interdit de faire à l'avenir dans les vallées des cours d'eau suivis par la frontière aucun travail qui puisse amener un changement quelconque dans les thalwegs de ces cours d'eau tels qu'ils sont rapportés sur la carte topographique de la frontière.

Toutes les digues actuelles sont marquées sur la dite carte; elles seront conservées à moins que les deux Etats limitrophes veuillent, d'un commun accord, en supprimer ou en déplacer quelques-unes; il est également entendu qu'il faudra un commun accord des deux Etats pour élever de nouvelles digues toujours sous la réserve que les thalwegs formant la frontière ne seront pas changés.

VII. Les deux premiers documents dont il a été fait mention à l'Article II, savoir la carte topographique spéciale comprenant 30 sections et représentant tout le tracé de la frontière depuis la mer Noire jusqu'au Pruth, ainsi que le cahier de spécification qui indique aussi le cours de toute la frontière et l'emplacement des marques de bornage dans leurs moindres détails sont établis en 5 exemplaires reconnus identiques, un pour chaque Puissance représentée dans la Commission de délimitation; ils sont revêtus de la signature des commissaires délimitateurs et ils sont annexés au présent acte, dont ils ont la même force et valeur. Le dit acte, avec les deux annexes en question, est déclaré former le seul document authentique concernant la nouvelle frontière.

vernements de France, de l'Autrich
Russie et de la Turquie par leurs cc
Fait à Kichineff le $\frac{11 \text{ Avril.}}{30 \text{ Mars.}}$ 1857.
BESSON.
KALIK.
ED. STANT
M. FANTO
BARON A.
MOUHHLI

SPEECH of the President of
National Congress.—
(Translation.)

FELLOW-CITIZENS OF THE SENATE
CHAMBER OF DEPUTIES,

BENEFICENT Providence ever
nations continues to grant his prote

Nothing has occurred to distu
foreign nations.

The Treaty of American Unio
consideration more than a year a
ample and liberal basis for the
American States, and guarantees
aggressions, of which we have see

In the Argentine Confederation three Consuls have been established, charged, principally, to attend to the transit trade carried on for that Republic; and, by a special regulation, the duties of those functionaries, for the protection of the interests of commerce and of the national treasury, have been determined with precision. Although it was at first thought sufficient to appoint one Consul for the transit by Uspallata, and another for that in the north by Atacama, the representations of the Chargé d'Affaires of the Confederation, and the desire of affording more ample facilities to commerce, have made me decide upon establishing a third Consul, to attend to the despatch of merchandize for the Province of La Rioja. The fresh burthen thus imposed on the national treasury, will be compensated by the greater development of the present commercial relations between the two States.

For some years past the necessity has been felt of defining and fixing our territorial limits with Bolivia, so as to obviate every question that might weaken that good understanding which, for reasons founded on reciprocal interests and on sympathies, we desire to cultivate with that Republic. Recent events have rendered this necessity more urgent, and have determined me to invite that Government (of Bolivia) to re-open the negotiations, formerly commenced upon this subject. The Government of Bolivia, animated by a similar desire, has accredited a Minister Plenipotentiary, with whom I trust to conclude an arrangement beneficial to both Republics. On our part, we pretend not to any increase of our territory, but to preserve what we possess, and what we have always possessed.

The situation of Peru for some months past, and the various incidents arising therefrom, have been the origin of reclamations against the Government, which in part have been satisfactorily settled; and I trust that those still pending will be settled in like manner.

As you know, the Chilian Plenipotentiary in Lima tendered his good offices towards the restoration of internal peace in that Republic. If his intervention did not produce the desired result, he performed his duty as the Representative of a friendly State by making efforts to put an end to the evils consequent upon internal disturbances.

I am sorry to tell you that the Treaty of Friendship, Navigation, and Commerce concluded with The United States, is found by the Senate of that Republic, to contain obstacles to its approbation. The points in regard to which modification is desired are of such a character that I fear the Treaty will remain without effect, and that the important relations existing between the two countries will be left to the rules, not always precise, of inter-

national law. The stipulations of a Treaty prevent questions which, ill-understood at a distance, may have a tendency to weaken confidence in speculations, and the harmony between Governments.

Our relations with the other States of the Old World, governed, as regards those with whom such relations are most frequent, by suitable stipulations, extend and multiply with mutual advantage. Thus it is with Sardinia, Spain, France, and England. Taking advantage of an opportunity whereby no burthens are imposed upon the State, I have appointed a Minister Plenipotentiary to the Queen of Spain, for the purpose of cultivating more closely the relations which bind us to a nation possessing, as the country of our fathers, special titles to the friendship and sympathies of Chile.

A Treaty is in course of arrangement with Belgium, and it will be presented to you so soon as it is concluded.

To fulfil, as far as possible, the duty of protecting Chilian citizens and interests abroad, new Consulates have been established at those places where they were most urgently required, or which are most frequented by our merchants.

The establishment of Consuls calls imperiously for the adoption of precise and uniform rules to guide the conduct of those officers. To supply this deficiency, I have presented to Congress a project of Consular regulations, which, being perfected by your wisdom, will provide for a necessity so generally felt. I again recommend its consideration to you.

The renewal of a portion of the high powers of the State has been effected without conflict as regards public tranquillity. The ardour which is the usual accompaniment of these acts, wherever Parliamentary Government is sincerely professed, has also been felt amongst us; but the good sense of the nation has sufficed to impede the overflow of excited passions, and the authorities have not been compelled to intervene with measures of an extraordinary character. The reform of the law of elections will contribute to correct the defects which are still observed in these acts, and I hope to be able to call your attention to this matter during the present session. Looking to the actual condition of our society, if it be not possible to extend the suffrage so as to render it universal, neither is it proper to restrict it, perhaps at the risk of constituting an oligarchy.

Exercising the authority with which you invested me by the law of 30th July of the year last past, I have granted an amnesty to all whose responsibility might be affected by reason of their participation in the political events of 1851. In order that this act might obliterate the painful impression of past conflicts, I deemed it prudent to

extend the same to responsibilities towards the Exchequer, which had been the consequence of those events. For, faithful to the principles by which my administration is governed, I should have been fearful of frustrating some of the good effects produced, had I not given the law that greater expansion.

The zeal displayed by many municipalities in improving the state of the communities and in satisfying their various wants is deserving of praise. During the past year 53 Ordinances have been approved of, chiefly directed to the amelioration of the police, to the decoration and salubrity of the localities, the better superintendence of market places, the more suitable regulation of municipal service, &c. To complete these Ordinances, various regulations have likewise been issued. In some Ordinances a spirit has been observed too restrictive of individual liberty and of industry; and Government has found itself under the necessity of accommodating their provisions to what public convenience and our constitutional Government require, exercising for this purpose the right of revision conferred on it by law. But, however great may be the zeal of these corporations for local improvement, their action is thwarted by the insufficiency of their resources. I will, in due time, appeal to your co-operation to find a remedy for this and other similar evils.

With the funds which you placed at my disposal I have continued to aid in the maintenance of the police force in various towns of the Republic. The burthen thus imposed upon the national revenue is becoming too onerous. It would therefore, be proper to provide the municipalities with funds from which they might satisfy this necessity themselves, and thus relieve the State from doing so.

Under authority of the law of 26th October, 1854, I have caused to be brought from Europe a considerable number of measures of length and measures of capacity for dry goods arranged according to the decimal system. The necessary orders are already given to make them legal and for their distribution amongst the different provinces, so that they may be disposed of with as little cost as possible to individuals. To obviate the complications of practice which the simultaneous alteration of every kind of measure would introduce, I have preferred to commence with those of extension and of capacity for dry goods, waiting until the general use of these shall render the adoption of the others less inconvenient.

The Postal Ordinance, already promulgated, begins to supply a deficiency which was felt in this important branch of the public service. Therein are detailed, with precision, the powers and duties of all persons employed in the department; the internal service of each office is fixed, and the method of keeping the accounts is arranged; in short, our postal system is thereby organized in a manner adapted to circumstances. The telegraph service being

closely united with that of the post, the ordinance contains besides special provisions applicable thereto. During the last year new posts have been established, and various measures taken for the regularity and greater celerity and expedition of the service.

The southern line of telegraph is established as far as Talca; and I hope that you will co-operate for its gradual extension until it shall unite all the towns of the Republic with each other.

The term of contract for steam communication with the southern provinces had expired. In January last a new one was entered into under the provisions of the law of 5th November of the preceding year; and although its conditions are more burthensome upon the Exchequer, still it enables the colonial territory of Llanquihue to enjoy the benefit of that communication.

It is with satisfaction I observe the sure, if not rapid, progress of the Colony. Already the elements of prosperity exist within itself, and fresh emigrants arrive, partly at their own charge, to increase its population. Government has abstained from giving a greater impulse to emigration on account of the State, in the hope that, meanwhile, the territory will be prepared for receiving an increased number of colonists, without the inconveniences of agglomeration. Meanwhile the active and zealous colonial agent in Europe is occupied in removing the wrong impressions entertained with respect to those parts, by making the country known in an advantageous, but accurate manner.

The rapid increase of public works requires a fresh and more extensive organization of the corps of civil engineers. Nor less necessary is the reform of the law of roads, for the purpose of determining, with precision, the duties of the State, of the municipalities and of individuals, in regard to which of them ought especially to contribute to the opening and maintenance of roads. The want of clearness and decision in various articles of this law gives room, on the other hand, to frequent law-suits, and the cause of this being known, the necessity of obviating it becomes necessary. Projects of law will be presented to you touching both matters and providing for the removal of those inconveniences.

Throughout the Republic particular attention has been paid to high roads; old ones have been repaired, new ones opened, and surveys have been made with a view to open others which are required. The details will be laid before you in the memorial on the subject.

I have recently approved the statutes of a company for the construction of a new railway in Copiapo. This undertaking will have a powerful influence in the development of mining industry, by removing the obstacles which the scarcity of provisions and the high price of carriage cause to the working of mines.

The railway from Valparaiso to Santiago is open as far as

Quillota, the traffic by the ridge of San Pedro being carried on in a provisional, but safe manner, until the completion of the tunnel which is being made through it. Of late, a new form of administration has been applied to this undertaking, whereby the charges have been diminished and the income considerably augmented. The produce of the first 4 months of the present year is more than double that of the last 4 months of last year.

Under authority of the law of 2nd July, 1852, the National Treasury has increased the number of its shares to 3,000. The continuation of this grand work onward from Quillota cannot be undertaken with the requisite activity, until the Government shall be in possession of the funds necessary for the purpose. The functionary charged to contract for the loan is soon to depart for Europe.

The works of the Southern Railway advance rapidly. That part of the road which reaches the north bank of the Maipú is already opened to the public service, and the other part of the work is prosecuted with activity, whilst the bridge which is to connect them, is being finished. The law which you approved on the 18th of June last has powerfully contributed to the advancement of this undertaking. The simple and expeditious forms established for the expropriation of lands to be applied in the construction of railways, have overcome the difficulties met with by the directors in the execution of their work.

The scarcity which has prevailed in the province of Maule has obliged Government to direct measures for the relief of the indigent. Amongst these a preference was given to the opening of roads and other works of general interest, affording at once employment and the means of subsistence. The action of Government united with the generous co-operation of individuals soon succeeded in banishing the horrors of misery from that province.

Daily more worthy of public gratitude do those charitable institutions become to whose zeal has been confided the care of the hospitals and of the foundling establishment. The spirit of generous abnegation which animates them seems to grow stronger and more ardent in proportion to the increase of their disinterested tasks. Thanks to their zeal and perseverance, those establishments improve daily; and it is to be regretted that the number of those institutions is not sufficiently large to permit of their distribution in various parts of the Republic, where their charity would find an ample field for its exercise. The Government does not lose sight of this purpose, and will endeavour to realize it gradually.

I have continued to afford aids to some hospitals, and to encourage the construction of others in proportion to the necessities

of each town. Nevertheless, much remains to be done in this branch of the public service, and its wants are acquiring a certain character of urgency. As a means which might tend to satisfy these wants, I propose to establish health officers in every town of the Republic, to whose duties might be added the administration of dispensaries for the relief of the poorer classes. With this view I have submitted to your examination a project of law respecting sanative police, the despatch of which I recommend to you.

The short period which has elapsed since the civil code came into operation has not yet given opportunity for numerous and varied applications, nor has practice admitted of a judgment as to its defects or obscurities. Nevertheless, the courts of justice, have hastened to comply with the provision of Article V of that code, and have transmitted to Government those observations which up to the present time their own experience has suggested. As a supplement to the provisions of the code, the regulation of the conservator's registry has been determined for the protection of actual rights over immovables, and the functionaries who are to perform these duties will soon be appointed; a further supplement to the code is intended by the project of law, the purpose of which is to determine the requisites in regard to minors coming of age, and which I presented to Congress last year. Meanwhile, the provisions of laws anterior to the code are observed in this matter, and they do not seem to harmonize with the spirit of the code itself. The law respecting the liberation of trusts, which is already in operation, has had the effect of removing the obstacles to the free alienation of much immoveable property, and has completely realized the prescriptions of the Constitution in this matter.

The first and second books of the penal code are already compiled; this, likewise, is the case with respect to the commercial code. The code of civil procedure, commenced at a later period, is also in a state of progress, notwithstanding the peculiar difficulties attending the codification of this branch.

Justice continues to be administered, as always, with zeal and impartiality. The creation of additional minor courts has given more celerity and expedition to the movement of affairs, occasioning the almost entire disappearance of the arrears formerly noticed in the despatch of business. A like measure is urgently called for in various towns of the Republic, especially in the port of Valparaiso, where the task of the criminal judge daily becomes more pressing and troublesome. To provide for this necessity, I recommend to you the project of law pending before you, concerning the creation in that port of a court of correctional police, and, in proportion as the state of our revenue shall permit, I will

propose to you measures analogous to this for other towns of the Republic.

The judicial statistics, confided to the tribunals, are becoming more regular and perfect. Although we cannot, as yet, flatter ourselves with possessing complete data on the subject, efforts are making to obtain them; and those collected up to the present time already permit the formation of partial estimations, the importance of which will go on augmenting in proportion as it shall be possible to make comparisons upon a larger scale. Some orders have been issued for the purpose of rendering these labours uniform.

With a view to encourage the establishment of libraries in the courts of justice, Government has granted certain sums of money to the courts in Concepcion and La Serena (Coquimbo). The regular repetition of these succours will, at the end of a few years, place within the judge's reach a resource which is of the highest importance in giving precision to his resolutions.

The rapid transformation which has been effected in this country during the last few years is principally perceivable in the dearness of the necessaries of life. Salaries fixed upon the conceived necessities of a former epoch are altogether insufficient to satisfy those of the present day; and this consideration more especially applies to the salaries of the judges in general. The abundant emoluments offered by the forensic career make it necessary, on the other hand, to draw the lawyer away from the attraction which attaches him to his profession, in order to incline him to undertake cheerfully the laborious task of magistracy. For this purpose it has become indispensable that the judges' salaries should be augmented, so as to place them on a level with present necessities, and with the state of our revenue.

One of the branches of public service, intimately connected with the administration of justice, is that of the attesting officers. The personalty of this branch has improved in a remarkable manner, and these officers generally perform their functions with intelligence and honour. The Government has been trying, with success, the division of the functions of these officers, as regards their intervention in judicial proceedings, and in issuing public documents. This trial has been made both in the criminal and commercial courts of Santiago, and the result justifies the hope of an improvement in the public service, by gradually extending this measure to other towns of the Republic.

A law is most urgently required which shall establish uniformity in the management of gaols and prisons, and determine the system of punishment to be carried into effect therein. A project of law

is pending before you, intended to supply this defect, and I recommend it to your consideration. The Penitentiary has been the object of various measures calculated to improve its government, and amongst those measures is that of having confided the direction to a special functionary. By studying more closely the necessities of this establishment, they can be more exactly satisfied, and the establishment itself be gradually elevated to the degree of perfection at which institutions of this kind have arrived in other countries.

Several provinces already possess prisons wherein, besides securing the criminals, it has been the object to provide for their religious instruction, their convenience, their proper separation, and even, in some of them, for their employment. These results are due to the exertions of the municipalities, and to the aids furnished by Government out of the funds which Congress has placed at its disposal for the purpose.

The Very Reverend the Archbishop of Santiago, and the Reverend Bishop of Concepcion, have made a partial visitation of their respective dioceses. So, likewise, in his, and with similar apostolic zeal, had the Reverend Bishop of La Serena. Licence has been granted for the admission of the Bull, instituting the Reverend Bishop of Ancud (Chiloé), who, already having charge of his diocese, has commenced the promotion of its spiritual interests with activity. By the operation of the law which assigns a larger income to the dignitaries and prebendaries of the cathedral churches of Ancud and La Serena, a just exigency of the service has been remedied.

The seminaries of Santiago, La Serena, and Ancud, have been assisted during the past year, with 40,000 dollars (about 8,000*l.* sterling). The first has already received, as an extraordinary assignment, and over and above the annual grant made to it, the sum of 105,000 dollars (about 21,000*l.* sterling). The last has been an object of particular solicitude on the part of its worthy prelate; and Government feels satisfaction in specially encouraging it, seeing that there, more than in any other part of the Republic, the want of clergymen makes itself felt.

27 churches testify to the continued attention of Government in appropriating the funds voted by Congress for the erection or repair of those edifices. Sums of money have been granted besides for the erection of the bishop's house in La Serena, and for the repair of that of the Bishop of Ancud.

The scanty emoluments in some parishes do not amount to sufficient even for the subsistence of their priests. This circumstance has moved the Government to grant new stipends, or to augment the former ones in favour of several curates.

The suspension of professions in the regular orders led to the

apprehension that these bodies might become extinct. I have seen, with satisfaction, that some of them have again opened their houses for the reception of novices, and I trust that the rest will follow this example. The services which these corporations render to morality and religion fill up the void left by the insufficient number of our clergy. They take upon themselves the more rude and painful tasks of the priesthood, being usually those who convey the consolations of religion to the bedside of the labourer, and into the precincts of the lazarets.

In the conversion of Indians the propaganda missions proceed with a slowness which is the natural consequence of the resistance offered by deep-rooted prejudices and inveterate traditional habits. The Missionary College of Castro, an interesting establishment which also provides fitting priests for the diocese of Ancud, has been assisted with large sums to restore its edifices ruined by fire.

Under the zealous and intelligent direction of the Council of the University, the higher branches of education progress, and a marked predilection amongst the youth is observed for serious study, and for the natural sciences. Of the establishments destined to propagate these, I must specially mention the Museum and the Observatory. The first has been enriched with the fresh acquisitions made by its Director during his last journey to the south, and the new edifice for the second is nearly finished.

To complete the higher classes of knowledge, certain branches of instruction are about to be introduced of a practical nature, corresponding to the profession of an engineer; and of a studious kind, tending to develope more extensively the elementary notions acquired in the course of a preparatory instruction. For these objects, professors have been solicited from Europe.

Preparatory instruction in all the provincial Lyceums has been placed upon a level with the course followed in the National Institute. By this means the pupils who attend the Lyceum classes become qualified to follow the courses of the University, so soon as they have completed their studies in the former. Almost every province possesses its Lyceum, and Valparaiso, which possessed none, will soon be provided with one, the building for which is far advanced. The question of supplying a similar want in respect of Aranco, Valdivia, and Chiloé will be considered.

The schools of painting, music, the deaf and dumb, obstetrication, and of arts and trades, are frequented by many pupils, and answer respectively the object for which they were established. The school of arts and trades of Talca has been restricted to the reception of in-door pupils only, the better to ensure application and improvement. A house is now building for the reception of the deaf and dumb, and one of its departments, when finished, will be set apart

for the instruction of the blind. These unhappy beings, deprived of the common faculties for supplying their necessities, are well deserving of the special protection of society.

The normal school for preceptors continues to supply competent schoolmasters, and from that of governesses some mistresses have already gone forth to exercise their functions. I entertain the hope that this last establishment will, in its peculiar department, render to the State services equal in importance to those rendered by the first.

The foundation of libraries for the people, although still very limited, is destined hereafter, to exercise considerable influence in enlightening the multitude. By perseverance and with confidence in the support of Congress, this result will be accelerated.

I have continued to bestow steady attention upon primary instruction. New schools have been established; the teaching and endowments of the old ones have been improved; aid has been furnished to the erection and repair of convenient buildings; and even matters of detail in connection with the printing of proper texts for reading have been the object of measures on the part of Government. Special visitors watch over and sustain in each province the application of superior methods of teaching; and to facilitate their performance of this duty, in addition to the salary enjoyed by them, a sum is allowed to them for travelling expenses, whilst they remain absent from their usual place of residence.

Notwithstanding the liberality with which Congress has come forward to provide resources for this branch of the public service, the want is severely felt of a law which shall give uniformity and stability to the system of education; which shall provide special funds for it free from eventual contingencies; and which, by securing the future prospects of the masters, shall encourage them to devote themselves earnestly to their laborious tasks. A project of law which aims at these results is before you, and I recommend it to your earliest consideration.

All nations of the world are now so intimately connected, as regards commerce, that they seem not to be strangers to each other, but rather members of one great family, called upon to share in the same lot. As a consequence of this community of interests, the commercial crisis which has made itself felt in other countries, has likewise affected our own, in some slight degree diminishing the national income. It is probable that it will continue to make itself partially felt even as regards the present year's income. Still the Republic has had no reason to deplore painful conflicts, and its transactions have only experienced a certain degree of embarrassment which the good sense of our merchants and some measures of administration have sufficed to clear away. The receipts of the Exchequer have been sufficient to provide for the

necessities of the service, and to meet with punctuality the demands of the home and foreign debt.

The taxes on stamps, on property (catastro), and licences require revision; both as regards their more equitable assessment and for their surer and easier collection. When these taxes have been regulated, it will be possible to liberate the industry of the nation from the tobacco monopoly which at present impedes its development. I hope to be able to call your attention to this matter, during the present session.

The establishments for credit recently established in the country still require a law to regulate their transactions, and to settle confidence in their operations upon a firm basis. Were this state of things to subsist longer it might leave room for serious conflicts in society, and gradually for strong prejudices against the banks, thus naturally retarding the benefits to be expected by commerce from their co-operation. To be prepared with a remedy for these eventualities, which have weighed so disastrously upon other countries, I have submitted for the approbation of Congress a project of law which endeavours to combine the most ample freedom in this department of industry with the necessary securities which its practice ought to afford. I trust that you will give it your attention.

The Bank of Credit on Mortgages (Caja del Credito Hipotecario) continues to serve as a beneficial encouragement to agriculture and to promote the circulation of capital which in no wise contributed to the increase of industry. The great advance in the interest of money has had its influence upon the value of this bank's paper and in contracting its issues. Both inconveniences would disappear by a guarantee, on the part of the State, of the value of that paper, under certain conditions, and upon this matter I will shortly occupy your attention. This establishment requires also a responsible and permanent functionary to give the Council of Administration information upon the complicated legal questions usually arising out of the mortgage of landed property. Pending before you is the project of law which provides for this necessity, and I recommend its despatch to you.

The Customs laws are under revision, not only in regard to their administration, but also as to their provisions.

The operations of the Mint this year have been upon a more reduced scale than formerly, by reason of the serious difficulties in the acquisition of bullion. Sellers generally find the market price more to their advantage than that which the Mint is authorized to give. To establish an equality, the Mint price has been augmented by making advances upon bullion at long dates and low interest. A radical remedy is required notwithstanding, and for this purpose I will submit to you a project of law.

The artillery corps has been the c
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gradually elevate it to the advanced sta
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Europe. Thus we shall be able to
engineers, to serve in the artillery and
this profession.

Throughout almost the whole of

The navy has suffered a serious loss in the steamer *Maria Isabel*, and the steamer *Maipú*, recently purchased in London, is now detained at Rio de Janeiro on account of defects observed in her boilers. The necessary orders for repairing her have been already issued. The want of these steamers has prevented me from acting upon the authority you gave me to sell the sailing-vessels. The steamer *Maule*, intended to act as a tow-boat in the port of Constitucion, has been thus employed since September of last year.

The naval school was opened at Valparaiso on the 1st of May of the present year, on the basis settled by the law of 18th December last. According to the plan for its organization, it is to constitute an establishment of public education for the marine, divided into two sections—the one, composed of in-door cadets, intended for the Republican navy, and in the pay of the Republic; the other, of out-door pupils intended for the merchant service.

The mercantile marine grows and acquires strength with the progress of commerce and other branches of industry to which, on the other hand, it communicates life and movement. Having been brought under a new and more equitable system for the measurement of its tonnage, which places it upon a footing of equality with other nations in this respect, a considerable relief has been granted in regard to the payment of duties to which it is liable, according to its capacity.

A new catadioptric light has been established in the port of Valparaiso, which has been in successful use since the 18th of September last, and another is being put up at Punta Corona, to light the entrance to the port of Ancud (Chiloé). A similar measure will be adopted for those other points of our coast which may most need it.

Fellow-Citizens of the Senate and of the Chamber of Deputies,

Summoned to labour for the good of the Republic, it must be satisfactory for you that its progress, under the shadow of peace, has prepared the way for you to render to this great work the aid of your knowledge and patriotism. The object of your tasks, as pointed out by your constituents, is the same as that towards which the Government directs its efforts—the prosperity and glory of our country, to strive that she should occupy a distinguished place amongst nations by her advancement in the arts of civilization, by the excellence and stability of her institutions, by the general well-being of her sons. Let this be the object towards which we move, united; and, since we have the honour to have proved to the world that the SpanishAmerican people can govern themselves by their own unaided efforts, and can continue to prosper: since we have the honour to possess a fundamental charter which sanc-

tions every great social principle, which, during a quarter of a century, has come forth triumphant from difficulties inherent to a State improvised out of fragments of inanimate colonies, and which served as the foundation of our present flattering situation, which the fathers of the revolution never imagined to be so near at hand; let us, likewise, offer the example of a nation, prudent and sensible, not only at the time of its re-organization, but also in the development and completion of its institutions. Let us continue the work already commenced with a decisive will, and without inconsiderately risking what we have acquired; in this manner we shall settle our democratic institutions upon a firm basis, and liberty, daily more and more assured, will cease to inspire timid or pusillanimous natures with apprehension, and will exert her vivifying influence on a more extensive scale.

May the Almighty enlighten your counsels and direct them for the greater good of the country.

MANUEL MONTT.

MESSAGE of the President of New Granada, on the Opening of the National Congress.—Bogotá, February 1, 1858.

(Translation.)

CITIZEN SENATORS AND REPRESENTATIVES,

THE Republic is at peace with all nations, and excellent harmony prevails between ourselves and the Powers with whom we have contracted relations. The serious and dangerous situation that weighed on the country 10 months ago, when threatened by the anger of two of the most powerful Governments of the earth, has passed away without impairing the national dignity. The English squadron,

tained decorous and friendly relations, which have enabled us to conclude a Convention for the settlement of the disagreeable questions arising out of the deplorable occurrences of the 15th of April, 1856, at Panamá. This Convention contains clauses which exceed the limits placed by the Law of the 18th of June, 1857, on the authority granted to the Executive Power to settle that question; and, therefore, it will be speedily submitted to your consideration.

In mentioning this grave and important affair, justice requires that I should pay a tribute of esteem and gratitude to the distinguished citizen who represents the Republic at Washington, for the zeal and efficiency with which he has served her.

The Treaties of Friendship, Commerce, and Navigation, concluded with His Majesty the Emperor of the French,* with the Republic of the Equator,† and with Lubeck, Bremen, and Hamburg, which met with your approval, have been promulgated and put in force.

The Congress of Costa Rica not having accepted the explanations made by you, on approving the Treaty of Friendship, Commerce, Navigation, and Boundaries, signed on the 11th of June, 1856, it has not been possible to ratify it, or to put it in force; the relations and interests which that document arranged and defined continue therefore in the same indeterminate state as heretofore.

Through the medium of the Ministers of His Majesty the King of Portugal, and of New Granada, residing at Washington, a Treaty of Friendship, Commerce, and Navigation has been concluded, which shall be immediately presented to you; by it our relations with one of the Powers of the Iberian Peninsula are advantageously defined.

The Government of Peru, desirous of strengthening and drawing closer the bonds of friendship which have always united the two Republics, has accredited a Legation to this Republic, with which a Treaty of Friendship, Commerce, and Navigation is in course of negotiation, and which, I trust, will be concluded and submitted to your examination and approval during the present session.

The difficult circumstances in which the Republic was placed last year, and the great and important questions at stake, rendered indispensable the appointment of a Minister Plenipotentiary to the Courts of France and England, in order to promote the important arrangements which were under discussion, and to obtain support for our external security. This important post was confided to an old and tried servant of the Republic.

All the Boundary Treaties concluded or initiated with each of the nations that surround us have failed, and our frontier line is not, for the most part, properly acknowledged by our respective neighbours. Vast deserts, many of which are unexplored, separate

* Vol. XLVII. Page 774. † Vol. XLVII. Page 1270.

us from the neighbouring nations, and with the exception of those lines that run through peopled territories on the frontiers of Venezuela and Equator, in which actual possession, daily recognized, leaves no room for doubt, throughout the remainder of our extensive borders it is necessary, in order to prevent future disputes and wars, to determine with precision the boundary line by natural marks to be easily recognized. Every day that passes adds to the importance of those deserts, and renders their demarcation more difficult and the uncertainty of the frontiers more dangerous to peace.

In the vast regions to the eastward the people of Venezuela and Brazil have occupied most important and extensive tracts of country which, on the principle of the *uti possidetis*, acknowledged by all the Governments on this continent, belong unquestionably to New Granada, whilst on our side not only have we abstained from advancing a single step beyond the limits which that principle establishes, but our people have rather retired from the frontier line. A continuance of this state of things is disadvantageous to us. Venezuela being in possession of the navigation of the Orinoco, and Brazil of the Amazons and Rio Negro, they have easy and frequent communication with the people established on the banks of those rivers and their principal tributaries, and without difficulty or effort attend to their preservation and advancement. Private interest alone suffices for those establishments to go on advancing from day to day to the westward upon our territory. Venezuela possesses a peopled district, under the name of Rio Negro, all, or the greater portion of it, in Granadian territory, and in the most important part of that vast region. The occupation effected by Brazilians is not less extensive or of less importance.

The central points of the civilized portion of New Granada being situated at immense distances from the frontiers, and those beautiful

territory, blessed by Providence with wonderful fertility, and capable of maintaining with ease a population of from 80 to 100,000,000; for the part comprising lakes, lagoons, marshes, snowy heights, or rocky precipices, is comparatively small, and even the lofty slopes of our mountains, where arborescent vegetation ceases, produce rich natural pasture, now deserted. There is, therefore, no reason to covet even an inch of ground not our own; but that vast territorial property is pledged to our creditors, and is the patrimony of our children; it is therefore our duty to preserve it. Moreover, the national dignity is injured by suffering with shameful indifference the occupation of our territory and the violation of the rights of the Republic.

It is fitting that an end be put to the present state of things by means of Treaties, but as this Republic has no representative accredited to those Governments, nor are they represented here, it is necessary to send a mission, which, being provided with the required data, may initiate and successively conclude boundary Treaties with the respective Governments. Should Congress attach the same importance to this question as the Executive Power does, it will no doubt vote the necessary sum for carrying it out.

The colonization of the neglected territory, which it would be convenient to occupy, would fall to the duty of the States; 6 of the 8, which constitute the Republic, border on foreign nations; and it would be expedient to impose on them the duty of peopling some of the most important parts of their respective frontiers; these new settlements should be located as near as possible to the foreign ones, in order to obtain from them, by means of traffic, the necessaries of subsistence which they would require at first, and which it would be difficult to procure from the remote towns of the Republic.

The alarming situation to which I have alluded having passed away, the Republic is at peace with all nations; but it must not be understood from this that our foreign relations promise a future of well-founded security and prosperity. The external security of nations rests upon the esteem and respect with which they inspire foreign peoples and Governments; upon the credit they enjoy, and the forces and resources at their command for upholding their rights; and in all these respects we are on a bad footing.

New Granada, like the rest of the Spanish-American Republics, with perhaps some happy exception, is imperfectly known and wrongly judged of by the powerful nations destined to have frequent intercourse with her. As she is supposed to be plunged in barbarism, the frequent changes introduced into our institutions are looked upon as a proof of our incapacity for self-government; the adoption of theories, and the promulgation of doctrines held in abhorrence or contempt by those nations, are considered as a de-

monstration of our ignorance and want of political tact and morality; the repeated disturbances and wars with which these countries are afflicted, are held to be unequivocal signs of bad government and anarchy. Hence it happens that whilst here, we are proclaiming the rapidity with which the Republic runs over untrodden paths of political progress and social advancement, yonder we are looked upon as rapidly hastening to complete barbarism. In order to comprehend the disdain which such detrimental opinions inspire towards us in those enlightened regions, which, from their high state of civilization, are called upon to extend to nations in their infancy their meed of reputation or discredit, it is sufficient to read, not only the fugitive publications of their daily press, but even the serious writings of their historians and statesmen, to perceive the deplorable ignorance in which they are of our recent history, of the present state and circumstances of these countries, and even of its geography. But as the good or bad opinion is in the animus of those who judge, and as it is not in the power of those who are judged to change it, however erroneous or unjust the opinion which is formed of our country may be, it produces, just as if it were correct, its natural effects, and deprives us of those advantages which a better knowledge of our state and true circumstances would not fail to procure for us.

The Republic, being weighed down by the enormous debt contracted by the past generation, and augmented by the present one, has not been able, nor is it yet in a position to fulfil all its engagements; consequently its credit is much depressed in foreign markets. This is a difficult and painful situation through which, at some period or other, most of those nations have passed, which are now justly proud of the extent and solidity of their credit; but this does not prevent its being for us a constant source of weakness, and of distrust abroad.

The creditors of this, and of the other Spanish-American Republics, the interest upon whose debt is in arrears, are almost the only persons that frequently notice these countries in the European journals; but as they generally do so solely to insult and defame us, their unpardonable conduct augments and keeps alive the bad opinion of us, to our disadvantage as well as to their own certain injury.

Opinion being prejudiced against the Governments of these imperfectly known Republics, whatever event occurs, and whatever question arises, they are deemed to be in the wrong before they have obtained a hearing, and are, therefore, deprived of the support which the enlightened opinion of an independent press affords to the cause of justice in international disputes.

The fulfilment of the laws and the preservation of public order

having been confided to the naturally good disposition and patriotism of the New Granadian people, who have in general worthily responded to the confidence reposed in them, we have no national navy or army, properly speaking, nor any organized militia armed and disciplined, which are the elements which constitute the public force. If such a state of things can satisfy the necessities of internal peace in the normal condition of quiet and tranquillity, the same cannot be said as regards our external security.

New Granada being thus situated without the conditions required for external safety, without any physical or moral support, without forces or any organized means of defence, and without credit wherewith to obtain such means; face to face with powerful nations, possessing immense resources of all kinds and enjoying the esteem and respect of other countries, our position in all international contests is the most unfavourable and detestable that can be imagined. Never did patriotism exact from personal dignity a more repugnant sacrifice than to be obliged to contend, under such conditions, for the rights of the Republic: it is tantamount to fighting bound hand and foot against an antagonist armed to the teeth.

Some persons imagine that, were the Republic without Treaties with other nations, the causes of international disputes would be fewer, and that the Republic would be in a better condition when they did occur. I think the contrary. The matters on which our disputes and disagreements with great nations have arisen never originated in the Treaties, nor would they have been wanting had no such Treaties existed. Such things are the natural consequence of our geographical position, of our generous institutions which offer hospitality to all the inhabitants of the earth, guaranteeing their persons, property and industry; of the imperfect administration of justice and authority in a great part of the Republic, and of the frequent disturbances which afford scope for violent aggressions against guaranteed rights, in which foreigners are sometimes involved, notwithstanding the respect in which their persons and property have always been held, even during the most violent outbreaks. The absence of Treaties would not cause such circumstances to disappear or even to become less frequent, nor would it deprive foreign Governments of the right, as well as the means and the will, of exacting compensation for real or imaginary injury inflicted on their subjects, but then their action would be more free and undefined. Between two parties obliged from circumstances to maintain relations with each another, it is of great importance to the weaker to have defined beforehand, in written Treaties, the conditions of such relations, because the stipulated obligations will always prove a powerful check on the abuses of the strong.

It is not in our power to change our geographical position, nor would it be possible to find a better; it is not our interest to restrict the freedom granted to all the inhabitants of the globe to establish themselves on our soil; but what is within our power, and for our own advantage, is to improve the administration of justice and authority, to put a stop to disturbances and revolutions, which are the principal causes of those international disputes that annoy and mortify us so much, and which with excessive frequency compel us to make pecuniary sacrifices which complete the ruin of our treasury and aggravate the painful sore of our discredit. The use of those institutions that effectively insure the security of life and property constitutes the most certain means of acquiring the esteem and respect of powerful nations. Whatever contrary doctrine we might adopt would weigh but very little in the minds of nations who, with justice, consider themselves in a position to give us lessons of order, justice, progress and practical liberty, instead of receiving them from us, who, although not sunk in that state of barbarism which they suppose, are nevertheless far from that elevation which nations more advanced have attained.

Foreign relations, which are with difficulty maintained on a satisfactory footing under a central governance, for a weak nation, which has not yet attained a very elevated reputation for power, justice, and wisdom amongst foreign nations, are much more difficult and exposed to frequent and dangerous interruptions under the federal system. As this business does not come within the competency of the States, and the direct responsibility of international contests does not rest upon their legislatures, governments, and judges, they will probably not consider themselves under the strict obligation of preventing them; at all events, they will not willingly submit to those minute and courteous attentions which are indis-

leave to the discretion of the States a matter of which the consequences will affect the entire Republic.

At the close of the last session of Congress the Republic was in a dangerous and anomalous situation, from which it has not yet emerged. By four different laws the territory was divided into 8 Sovereign States, forming, nevertheless, only one political body; but without being united by a Constitution or federal compact, formed upon that basis for the purpose of establishing the relations between those bodies, and organizing the public powers which were to maintain those relations and carry them into effect; but there existed merely the remains of a Constitution formed on the hypothesis that the Republic was one and indivisible, ruled by a single central Government. The anomaly being notorious, a great number of our fellow-citizens, accustomed to see anarchy spring up, and spread itself over the country in spite of the Government constituted under the conditions necessary for preventing it, entertained serious fears that such a condition would produce a general disorder, and plunge us into an abyss without egress. But Providence saved us, and order has been maintained, thus giving the lie to the prophecies and fears of anarchy which were entertained. The natural force of cohesion which unites the different parts of the Republic, the absolute liberty which reigned in the important elections for Members of the Constituent Assemblies of the States, the moderation and good judgment which presided over them, the natural consequence of that liberty, have sustained peace and harmony, and frustrated the obscure and impotent machinations contrived for profiting by the dangers of the situation.

The difficult and dangerous position of the Republic was manifest and could not escape the knowledge of the Legislators, who took it into their consideration. The period of the ordinary session of the Congress having expired, without the project of Constitution agreed upon in 1856, being adopted, it became impossible to discuss it, for such a proceeding would have been contrary to the terms of the 3rd paragraph, Article LVII, of the Constitution; neither was it possible to propose and adopt a new project, for that would have required that four-fifths of the members of the two Chambers should be unanimous, which was not the case. There were still two Constitutional methods of limiting so dangerous a situation by expediting the Federal Constitution. The first of these was to convoke, by means of a law, a Constituent Assembly, agreeably to the 2nd paragraph of the aforesaid LVIIth Article. The second was to pass a Legislative Decree reforming that Article, so that the present Congress might, without difficulty, constitute the Confederation. This last method was proposed, but for reasons beyond my comprehension it was *not* accepted by either Chamber.

However, what behoves us now is not to deplore what was left undone, but to consider what is proper to be done.

Four different methods present themselves to the Congress to meet the obvious and urgent necessity of constituting the Republic, in bounden accordance with the LVIIth Article of the Constitution. The first is to approve during the present session a project of a Federal Constitution by a majority of four-fifths of the members of both Chambers. I am of opinion that time should not be lost in discussing a project of this kind, in the hope of obtaining such a majority, for it is altogether improbable that it should succeed, considering the notorious difference of opinion that prevails amongst us upon every important point of political organization.

The second method is to pass a project for publication, in order that if it be approved of in the next ordinary session of Congress, without any material alteration, it should be sanctioned as the Constitution. This mode of proceeding, which would keep the Republic for at least another year in its present anomalous and dangerous situation, is unsuitable; and if it be considered that it might again happen, as it has already, that Congress in its next session should not deem the project acceptable, and that in such a case the irregular state of the Republic would continue from year to year, it becomes very evident that this method is not acceptable, as it would be manifestly imprudent to expose the country, indefinitely, to the evident dangers of dissolution.

The third method consists in convoking a Constituent Assembly by means of a law. This is preferable to the foregoing propositions; for although the present state of things would be prolonged for some months, there would at least be a certainty that the Republic would be constituted in a shorter period. In order that such an Assembly should represent the genuine will of the people, the

confine itself to the despatch of business relating to foreign affairs, the estimates, and the Army Bill; because all reform in any branch whatever is inopportune when the organization of the Government is pending and proximate, to which should be left all the constitutive laws of the different branches of the public service.

It is nearly half a century since the Republic was proclaimed in New Granada, and ever since, our principal business has been the framing and reforming of political constitutions; and it is worthy of notice that at the end of that period the most urgent affair in hand is the forming of a Constitution, because the Republic is without one. This will not signify, if on the present occasion we succeed in constituting our country in such a manner as that, having satisfied the requirements of the true interests of our scattered population, the troublesome and sterile task of trying political forms should cease for many years, because these trials tend to destroy the respect which is essential to the preservation and efficiency of fundamental institutions; and at the same time they impair the credit of the Republic abroad, and annihilate the confidence which ample guarantees must inspire amongst the surplus population and superabundant capitals of other countries, that would here meet with more copious and certain profits.

The principal questions that require to be disposed of in the Federal Constitution which the Congress is called upon to form, were fully discussed in both Chambers in 1856 and 1857; nevertheless, as the final result of those discussions is not entirely satisfactory, I take the liberty to call your attention to the principal points in that high and important matter, which will no doubt occupy you from the beginning to the end of the session.

The States, being already in possession of nearly the whole of the matters which form the subject of legislation and government, such as the political constitution of the State, the municipal organization and service, judicial organization and procedure, public force for causing the laws to be executed, and for the preservation of order, roads, public education, and civil and penal legislation, which form the main part of social organization, there only remain to the general Government five grand objects to fulfil: to maintain external security and cultivate the relations of the Republic with the other nations of the earth; to preserve union, peace, and the mutual rights and obligations among the States; to put an end to civil war and the mutual destruction of the citizens in the State; to maintain the freedom of trade among the States; and to exercise the rights and fulfil the obligations which the confederation has in common, as regards associations or individuals, whether natives or foreigners.

A Federal Republic may take two forms essentially distinct, and

it is necessary to choose between them. In the first, considering the Republic as a society of sovereignties, each State is an individual, and the general Government exercises no action or direct power over the citizens, who are immediately dependent on the Government of the State alone, with which the general Government communicates in every case. This is the ancient form, justly condemned as being weak, impotent, and calculated to keep up a constant struggle, always sterile and often disastrous, between the general Government and the Governments of the States. The second form, which directly submits the citizen both to the general Government and to the Government of the State, in matters appertaining to each, is the happy idea realized in The United States of America, and which I doubt not, will meet with the preference of the Granadian Legislators, as both theory and practice prove that it is under this form that the several Governments can effectively fulfil their respective missions.

But in order that a Federal Government, organized according to this new plan should act without the continual embarrassments that the natural complication of the simultaneous action of powers independent of each other, upon the same persons and things produces, it is of absolute necessity that a high tribunal should exist, invested with the powers necessary for judging the acts of all the authorities employed within the territory of the Republic. Without this powerful counterpoise, for keeping each power within its legal orbit of action, the confederation would very soon become the theatre of confusion and contest, which would inevitably lead to anarchy and dissolution.

Accustomed as we are to see the judicial power depressed and straitened by the aggressive powers that have set themselves above it, the idea of a superior tribunal, competent to decide upon the acts of the Assemblies and of that which has been improperly called the supreme power, is perhaps repugnant to our prejudices; nevertheless there is nothing more conducive to the preservation of legal order and peace, nor more efficacious in rendering individual liberty and security an actual reality. If the short and disastrous history of the Spanish-American Confederations be attentively examined, it will be immediately perceived that the impotence of their Governments, and the anarchy which has corroded and destroyed them, have been the natural effects of the want of a superior regulator, to maintain the rights of the different rival powers put in action and in immediate contact with each other.

With regard to the general forms of the Federal Government, it is not to be expected that there will be any great difference of opinion. A Congress to legislate, a magistrate to execute the laws, and independent tribunals to apply them, constitute the form now

adopted by public opinion without opposition. It would, therefore, be idle to discuss any other of the innumerable combinations which the Republican Government may assume. A representative democracy once adopted as the basis of a constitution, the elections form an essential part of it; and the system to be adopted in regard to them will depend upon the federative form preferred. Should the ancient form be established, each State will send to the general Congress representatives or Plenipotentiaries who will have to be elected and recalled at its pleasure, and the magistrate who is to wield the Executive Power will be appointed by this Congress or by the vote of the Assemblies of the States, giving to each an equal representation. Should the new form be preferred, the general Government being then the representative of the citizens of the Union, all of them should have an equal right in the election, and it would be proper that their participation in it should be direct. In this case the nomination of members for the general Congress, as well as that of the chief of the Confederation should be by popular vote, the elections being adjusted by general laws, without the legislatures of the States having any right to revoke the appointments, nor any participation whatever in them except the examination of the votes; unless it be thought preferable to confide this operation to responsible committees, which generally afford better guarantees for impartiality.

The firmest and most durable basis of all associations is justice; and in a nation desirous to establish and consolidate a democracy justice requires that the advantages and the burdens, the rights and duties, should be equally divided among the individuals composing it; so that the taxes, the conscription and all other services necessary for the maintenance and defence of the Republic, should be shared equally by all its members, whatever their place of residence may be. In the same manner the right of representation, which is the right to a share in the Government, in the imposition of the burdens, and in the distribution of the advantages and profits ought to be equal for all. The natural inference from this is that all the States cannot have an equal number of representatives, if they are not equal in population; nor can an equal vote be conferred upon them for any election or for the decision of any matter whatever, without at the same time establishing that every State should contribute an equal amount of taxes and services. This would be as unjust to the smaller States as to make the services and contributions proportionate to the population and the right of representation equal for the States, would be oppressive and ruinous to the more populous ones.

In order to fulfil the primary object of the Constitution, which is to preserve external security, and to maintain [illegible]

Powers, the general Government should have sufficient power to prevent and repress every act, whether of individuals or of the State Governments, which by violating Treaties or the principles of international law, should tend to indispose any foreign Government against the Confederation. Every act of this nature should be within the competency of the general judicial power if it constitutes a crime, and should therefore be a matter for trial.

Foreign trade, the merchant navy, the frontier fortresses, the boundaries of the Confederation, the Consular service, the extradition of criminals of other nations, the protection of foreign refugees, and everything that brings the Republic in contact with other Powers, as well as all matters intimately connected therewith, must remain in charge of the central Government; otherwise it would be powerless to prevent complications and conflicts, which would give rise to frequent claims by foreign Governments, claims which we have the liveliest interest in avoiding.

External security presupposes not only powers in the authority charged to maintain it, but also efficient means to do so. The public force intended for external defence may take two forms, that of a standing army, and that of a militia or civic guard; the first cannot be very numerous in republics without endangering liberty; and in New Granada the present state of the finances makes it impossible to maintain a considerable permanent force. It is necessary, then, that the external defence should be entrusted to the militia; and for this, one of two measures must be chosen: to give the general government the power of organizing, disciplining, arming, and disposing the militia in all the States; or to impose upon the States the obligation of maintaining a certain number of men, which might be settled at a twentieth part of the population respectively, and to organise them in bodies, armed and disciplined, which, without the necessity of going into quarters, might assemble any day without difficulty, and march to the place where their services should be required. This point is of the highest importance, and ought to be stated in the Constitution, in order to be afterwards developed in a law detailing all the conditions to be united in this force. It is essential the States should be obliged to maintain in arms that part of the population intended to constitute the force upon which external security is to rest; and not only will it contribute to protect the Republic from any external aggression, but it will also have a powerful influence in the maintenance of internal peace. Let the laws which rule in a country be what they may, there will never be wanting in it men disposed to create disorder, if they can do so to their own advantage, and without great danger; and where there is no standing army to restrain them, the only effective means of doing so is to organize and arm all the citizens who have an interest in maintaining order.

Although the civic militia ought to constitute the public force of the Confederation, it is indispensable that there should be the nucleus of a permanent force in which to preserve the practical knowledge of the art of war, and from which to supply skeleton corps of veterans to instruct the civic bodies in discipline and in the details of the service on any emergency, when it may be necessary for them to make a campaign. War has become a profession requiring a long and arduous apprenticeship; and the nation which neglects to cultivate those acquirements, will be exposed to contempt and oppression on the part of its neighbours, and may be devastated and subjected by any ambitious man with regular forces at his disposal; for patriotism and enthusiasm are of little avail against a well-disciplined army.

If it be made the duty of the States to keep up a disciplined and armed militia, the general Government should have authority to inspect it, to compel the Governments of the States to fulfil the duties assigned to them in this respect, and to organize the force itself should the States fail to do so.

Various enactments are indispensable for maintaining union, peace, and the mutual rights and obligations among the States, as the most important of which I will mention the following: to give to the Supreme Tribunal of the Confederation authority to take cognizance of, and to decide upon, all questions of whatever nature which may arise between two or more States; to impose upon all the Governments of the States the duty of fulfilling and causing to be executed all decisions of the Supreme Tribunal; to make it the duty of all the States to lend their co-operation to ensure the fulfilment of those decisions should the Government of any State pretend to resist them; to give to the Chief of the Confederation the right to interpose his authority for the purpose of preventing feuds between the States, and to repress by force, in case of necessity, any aggression of one State upon another.

In order to avert civil war in any of the States, enactments analogous to those which I have just mentioned are required; but I noticed that many members of Congress in the previous session were hostile to an idea, which, in my opinion, is very advantageous, and I will, therefore, add a few words more.

Disturbances and civil wars have been the plagues which have corrupted, discredited, impoverished, and desolated the Spanish-American Republics; to find a remedy for these evils would be the richest boon that could be bestowed upon these countries. It could never be obtained under the central form, but the federal system does offer effectual means for attaining the desired end, if the legislators choose to adopt it. The disorders and civil wars which consume us have always originated in violence or fraud,

which, by frustrating the electoral rights of the people, raise to the chief magistracies individuals rejected by the more general opinion, to the prejudice of those who have really obtained the votes of the majority. In such cases a great part of the nation refuses to submit to the intruded magistrates, and having no other means of resisting the illegitimate authority, but open force, they adopt it. At other times, the persons in high authority, desirous of extending their powers beyond legal limits, provoke the public displeasure, and, irritated by the opposition, they violate the laws and trample upon individual rights. The fanaticism of party, blindly patronizing those of their own side, against the justice claimed by the oppressed, render all legal redress impossible; and those who suffer, not finding any remedy for their wrongs within the sphere of the laws, launch into rebellion. It often happens, likewise, that factious men, without morality or shame, speculating on disturbances, proclaim the illegitimacy of the existing Government; they enlist the wicked, seduce the incautious, and, by a sudden stroke, make themselves masters of the public authority. The question of illegitimacy and oppression is always the origin of disturbances and civil war, and it is the want of some power with the character of a superior and independent magistracy, before which complaints might be carried, and which should have the right of deciding upon them, that renders the appeal to arms necessary. Let this magistracy be established; let it be surrounded by the conditions necessary to make it appear independent, impartial, and respectable, and the necessity for appealing to arms will have disappeared. Violence and fraud are often employed to elevate the will of a faction above the general wish; they will cease to be used, or be much less frequent, when such measures are no longer attended with the desired result, because there is a Supreme Tribunal to examine, judge, and annul all such acts. Rebellious pretences will lose their prestige, and will no longer seduce the ignorant masses, when every one knows that there exists a legal remedy for putting an end to any illegitimate or oppressive authority, without the necessity for an appeal to arms.

An expeditious way, therefore, of preventing civil war is to give to the Supreme Tribunal the faculty of taking cognizance of and deciding upon every question that may arise in a State, whether in regard to the legitimacy of its high powers, or the responsibility of the Government, or of the superior tribunal of the State. No inconvenience whatever can attach to such an institution, whilst the want of it makes it very probable that disturbances and civil wars will be as frequent among the States of the Confederation as they were in the central Republic, and even perhaps more bitter and more frequent. The smaller any political State is, the easier it becomes a prey to factions, which, by fraud or violence, usurp the

public power, and afterwards maintain their hold by persecution and force, leaving to the oppressed citizens no other means than an appeal to arms to recover their lost liberty and security.

It is a consequence of the faculty given to the supreme judicial authority to decide all questions touching the legitimacy and responsibility of the high powers of a State, that the Chief of the Confederation should have the power of putting the sentence into execution.

Sometimes it will happen that the members of a State will launch into civil war, in spite of the means appointed to prevent it; in such a case, it ought to be the duty of the chief of the Confederation to interpose his authority for the prevention of slaughter, and for the reconciliation of the belligerent parties; this in the majority of cases will suffice to put an end to hostilities. But if it should not succeed, then, rather than allow the destruction of citizens blinded by passion, it will be requisite to interpose with force to restore them to peace. This is often done by foreign nations, when the prolongation of a civil war affects their interests, and tends to disturb the general peace.

In order to maintain the freedom of internal commerce among all the States, various precautions are necessary, some of which ought to be stated in the federal Constitution. It has been a common occurrence among the towns of the Republic to throw upon the inhabitants of other places the taxes with which they should defray their own expenses; to effect this, they have taken advantage of their temporary right to establish tolls freely, pontage, and transit or importation dues, and it has been necessary to deprive them of that right in order to prevent their obstructing the internal trade. The ancient prepossession in favour of a protective system for home produce, and of burdening that of foreign countries, has not yet disappeared, and if the States are left at liberty to establish taxes of this kind, the Republic will soon see their frontier lines studded with Custom-Houses, or some such establishments, thereby repeating in New Granada the practice in vogue in Europe during the middle ages, when neither persons nor goods could travel through any part of the country without being detained at every step, and taxed with exorbitant duties of various kinds, by which commerce was extinguished and industry ruined. The States, therefore, must be expressly prohibited from imposing taxes upon persons or merchandize upon their entry into, departure from, or transit through their territory, as well as from levying tolls or pontage for any other purpose than the construction, repair, or improvement of the works where they are levied. Such imposts ought to be the same for the neighbouring States, for the produce

of those in which they are established, and for the rest; and they ought to be in proportion to the value of the articles upon which they are charged, otherwise the selfish system of protecting home produce will elude the prohibition.

The coasting trade, the navigation on the coasts of the Republic, and on the rivers and canals debouching into the sea, or which pass through the territory of the Republic into a foreign land, and *vice versâ*, as well as that on the rivers, canals and lakes which wash the territories of two or more States, ought to be under the control of the general Government, not only on account of their being intimately connected with foreign trade, but because if the States were allowed to legislate on such matters, their different pretensions would give rise to endless disputes, and in many instances the interests of some places would be sacrificed to the advantage of others, which from their superior situation were able to impose the law.

No one will dispute that the foreign trade, both of importation and exportation, is a matter which ought to belong to the general legislation; but it is not sufficient to declare that it is so: the States must be expressly prohibited from meddling in such affairs, otherwise frequent and dangerous embarrassments will arise. Imported goods, whether paying a duty to the Republic or allowed to be brought in free, must not be subjected to the payment of any duty to the States, except that on consumption, or tolls to be employed for the sole purpose of the improvement of the place where they are collected; and the latter will also be the only impost that can affect merchandise intended for exportation.

With regard to the fifth attribute of the general Government, which is that of exercising the rights and fulfilling the obligations which the Confederation has in common towards national or foreign associations or individuals, I will merely observe that in it must be included the credits and debts of the Republic, the income, taxes, and property mortgaged or engaged to creditors; all contracts of whatever kind entered into with the Government of the Republic; the privileges granted by it, and all matters in which there is any right to be exercised, or engagement to be fulfilled which affects the nation.

All matters in which two or more States are directly interested must also be declared within the national competency, as leagues or associations of States cannot be allowed for any purpose whatever, because they would tend to endanger the equality and harmony among the States, and consequently to produce a dissolution of the Confederation.

As soon as the Federal Constitution is sanctioned, it will be

necessary to proceed to frame the laws which its development and execution require. Those referring to the following subjects deserve special attention:

Organization of the judicial powers of the Confederation.

Procedure in the different matters appertaining to the Supreme Court and to the magistracies and other national tribunals.

Penal code for crimes within the national competency.

Penal establishments for all criminals sentenced by the tribunals of the Confederation.

Boundaries between the States.

General census.

Public force of the Confederation.

National elections.

As regards finances and the national credit, although the legislation now in force requires to be improved and modified, it is not necessary that this should be attempted during the present session, which should be devoted to business of a more urgent nature. Besides, this is a work that must be carefully prepared beforehand, and be discussed in the Chambers with more attention than can be devoted to it under the great accumulation of political questions now coming before them. Nevertheless, there are some measures of an urgent nature which will be submitted in due time.

The 6 States created by the laws of 1857 have been duly constituted, and their Assemblies have passed a great number of laws upon the principal objects of the public service. The variety of their institutions will provide useful lessons for the future; this not being the least of the benefits that the country will derive from the experiment about to be made of the federal forms.

Although in some of the States slight alarms were felt at the meeting of the Constituent Assemblies, they were soon dispelled, and order and peace has been maintained under the new Governments. This was not the case in the State of the Magdalena, where irregularities that occurred on the 15th and 16th of September, at the opening of the Assembly, led to a division among the members. Eight deputies separated themselves from their colleagues; protesting against the violence used towards them, and considering the rest of the deputies who remained united, legally incapable of acting as Constituent Assembly. Hence arose the question of the illegality of that body, which induced the city of Rio Hacha to disavow it and re-assume the Provincial rule, appealing to the general Congress to decide upon the competency and legality of the Assembly. Troops sent by the Governor of the State attacked the city, and, after a bloody battle, reduced it to obedience to the established Government.

The deficiency and imperfection of the laws by virtue of which the Republic has passed from the central to the federal system, have given rise to several acts of the State Assemblies infringing upon the powers reserved to the general Government. The Executive Power has called attention to those acts, trusting that the good sense of the Assemblies will correct the errors committed. The conduct of the Executive Power under the difficult circumstances in which the Republic was placed in consequence of the transition from one system of Government to another, has been that of a prudent physician attending upon an infirm patient who was passing through a dangerous crisis.

The State Governments in general follow the legal course regularly and effectively; and the only serious obstacle at present is the want of sufficient financial resources; time will remove this, if, as is to be hoped, they have the good sense to show some perseverance in the system which they have adopted; for it seems to be full time that every one should be convinced that in financial matters, the most ruinous of all systems is to have none, and to pass frequently from some kinds of contribution to others.

The law of the 12th of June last, upon public force, authorized the Executive Power to maintain a force of 1,000 effective men, and the law of the 26th of the same month, on the security of the State of Panamá, authorized the Government to organize a constabulary, military, and naval force, to the extent which should be deemed indispensable. The state of the public Treasury has not allowed the establishment of a police force in Panamá, and considering that the State maintains there such a force of this kind as its resources permit, it was thought preferable to augment the garrison to 200 men. This, however, could not be done at once, owing to the repugnance felt by the inhabitants of the other parts of the

called into active service. I will now add that this force is absolutely necessary, because the Republic having engaged to afford security to the Panamá transit, has a manifest interest in so doing, and experience has demonstrated that a disciplined force is required to fulfil that engagement.

In this city, which is the natural centre of all machinations against public order, because it is the residence of the general Government, the downfall of which is the only circumstance which could endanger the general peace, and because there is and always must be a considerable amount of stores and ammunitions of war, besides the general offices of finance and public credit, in which the funds are deposited as well as public documents, that excite the cupidity of those who speculate in revolts; and, finally, because the accumulation of capital and resources to be met with in this city renders it the most advantageous place for any subversive movement: in this city, I say, it is necessary to maintain a small garrison to prevent a surprise. What this costs the nation is really a saving; for if once order were subverted and the general Government upset, the nation would have to re-establish it, and the cost of this, as well as the losses occasioned by the occupation of the Exchequer and public credit offices, would amount to sums of which the interest alone would exceed the expense in question.

In former periods of the Republic, that part of the message of the Executive Power to the Legislative Chambers which spoke of the glorious army which gave us independence and renown, occupied the most distinguished place in that document; and now I only mention that army, which no longer exists, to pay it a tribute of esteem and gratitude. The illustrious veterans who composed it, mingled now in the mass of their fellow-citizens, are only to be distinguished by their scars and their honourable poverty. The most disagreeable mortification that the deplorable state of the public Treasury causes to the Government is the suffering it entails on the old and loyal servants of the country, by the privation or delay of the pensions which they earned with their hard labours and their blood.

The produce of the national income for the financial year of 1856–57, calculating approximately the returns of those branches denominated national property, Panamá Railroad, and improvements, the particulars of those returns not having been received, is as follows, and is thus compared with the estimates:

Branches of the Revenue.	Estimate.	Produce.
	Dollars.	*Dollars. c.*
Customs	1,000,000	997,969 96½
Mint	15,700	24,023 16½
Stamp Duty	90,000	86,265 80
Exportation Duty	70,000	124,247 82½
Salt Duty	500,000	551,080 81½
Post Office	88,000	69,215 84
National Property	55,000	20,000 00
Panama Railroad	80,000	30,000 00
Improvements	17,808	10,000 00
Total	1,916,508	1,893,503 49½

There is therefore a deficit of 23,004 dollars 59½ cents.

The estimate of the expenditure for the same year amounted to 2,150,520 dollars 53 cents, which is in excess of the revenue by 265,017 dollars 53 cents. The remissness of the paymasters in sending in their accounts, the general disorder which has pervaded the whole system of accounts, and the confusion in the paymasters' offices, occasioned by the transition from the old to the new system of things, have rendered it impossible to ascertain exactly the amount of the payments ordered, or the amount that remained to be paid in the year following the existing appropriations; but these are known to be considerable.

Taking for basis the produce of the revenue in late years, the probable receipts in the next financial year are estimated thus:

	Dollars.
Customs	1,200,000
Salt Mines	560,000
Post Office	60,000
Mint	30,000
Panama Railroad	30,000
National Property	20,000
Stamp Duty	5,000
Improvements	10,000
Total	1,910,500

The expenditure for the same year is estimated as follows:

National Debt	782,847
Government	118,465
Foreign Relations	86,550
Justice	17,284
War and Marine	268,377
Public Works	32,052
Benefactions and Rewards	167,722
Finance Department	605,061
Total	2,078,358

This sum is 638,398 dollars less than that estimated for the current year. Nevertheless, computing the capital of the floating debt redeemed at the Custom-Houses, and the sum which the general Treasury is indebted to the manumission fund, which items are not included in the estimates: the sum calculated for the next financial year exceeds the probable receipts by 1,067,259 dollars and odd cents.

There is no provision in the estimates for the expenses which will be required in the Department of Justice, if, as appears necessary, courts and tribunals are established in the States for the cognisance of the civil and criminal cases that are to be within the national competency; nor for those arising from the claims pending against the Treasury of the Republic, which may amount to a considerable sum; nor for the arrears of interest on the foreign debt, amounting to 2,029,626 dollars, and the interest which will become due in that financial year amounting to 922,557 dollars. But at the same time, in the estimates under the head of war, there is an item of 135,805 dollars for the pay of 1,000 men in active service, of which hardly four-tenths will be expended, unless some disastrous circumstances should disturb the tranquillity of the Republic or its external safety.

Of the sum estimated as the produce of the revenue, 803,000 dollars will be collected in documents of the floating debt, which will be cleared off, and 143,581 dollars in coupons, representing the interest of the debts denominated Treasury annuities (*Rentas sobre el Tesoro*) and redeemed pensions (*censos redimidos*), which are paid in advance.

The simple comparison of the probable receipts with the estimated expenses will show that our financial condition is deplorable, and that the Republic cannot go on with a deficit so enormous. The principal causes of this painful situation are two: the foreign debt bequeathed to us by Colombia, and that contracted during late years, which, converted into floating debt, absorb a very considerable portion of the revenue of the Republic.

From the time that the late Administration, establishing a rigid economy, put an end to the system of loans by means of ruinous contracts—a wise and patriotic resolve which has been adhered to by the present Government—the difficulties against which the Administration has had to contend, have been most serious, and the carrying on of the public service has been beset by continual embarrassments, the financial resources being insufficient to provide for even the most indispensable expenses. However, an end was put to a system which, by disposing before-hand of the entire revenue, would soon have rendered it impossible to carry on the Government; for, in proportion as the future resources were alienated and disposed of, its credit must have fallen until it was impossible to contract fresh

loans, and then all public service would have ceased. The last and the present Administrations have preferred to bear all the inconveniences of governing with an empty treasury, rather than use up the future resources of the Administrations to come.

In examining the inequality between the revenue and the expenditure, the first question that presents itself is, what remedy can be applied to the evil? The answer appears to be obvious: augment the present taxes and create new ones, or reduce the expenditure. But what is so easy to say is very difficult, if not impossible, to execute. In speaking of each of the present sources of revenue, I will point out what can be expected from them, premising that whatever improvement may be made, the augmentation will not, for many years, suffice to meet the expenditure.

With respect to the creation of new taxes, the attempt presents very serious difficulties. Should a direct contribution be proposed, which, being the most simple, is the first to present itself, and that which has always occurred to uncivilized nations, and to conquerors who were in need of immediate resources, it must above all things be borne in mind that, although in extraordinary cases of extreme danger, patriotism usually comes forward spontaneously with its offerings, in order to save the country, in ordinary circumstances it very rarely happens that any one is found willing to empty his purse into the Treasury for the purpose of paying the interest on old debts, or any such like expenses. What generally happens is that all the tax payers attempt to resist or postpone the payment, particularly when the tax is new and opposed to their habits; and all persons of any property being tax-payers, that is, all who have power and influence, the opposition proceeds from society in general, and to overcome it requires an authority endowed with ample and effective powers and sufficient force to impose obedience on the people, who, at the best, exhibit a decided inertness. But as neither such an authority nor such a force exists, nor is it likely that Congress will create them, a contribution of such a nature is a mere chimera under the existing institutions, and would produce nothing but general discontent. Add to this that the force necessary to levy such a contribution, universally disliked, would perhaps cost as much as it would yield; so that, besides being burthensome and harsh, it would be sterile.

The objects to which indirect taxation can be applied, have been in general, appropriated by the State Governments, which, convinced by experience of the unproductiveness of direct imposts, have exhausted the matters of indirect taxation, without procuring any residue for their treasuries; for new taxes are not usually very productive, especially when the means of enforcing them are weak and inefficient.

In order to judge of the possibility of diminishing the estimated expenses, it will be necessary to examine them. The principal item is the public debt, which absorbs about six-sevenths of the revenue; as this item depends upon former arrangements which we cannot alter at will, it does not admit of abatement.

The second item, in amount, includes the Finance and Treasury Departments, which comprehend the expenses necessary for the production of saleable articles constituting part of the national revenue, as also those necessary for the collection, direction, administration and keeping of the accounts of the whole revenue. These expenses are reduced to the lowest possible amount, and to attempt a saving which, by impairing the service, would diminish the receipts, far from being an advantage, would only be productive of loss.

With respect to the War Department, I have already stated, above, what amount may be saved out of the estimates; but, nevertheless, that item must not be omitted, because, should any circumstances of external or internal danger occur, which would render the saving unadvisable, it ought not to be made.

The other reductions which have been considered practicable, and which are of any importance, have been already made in the estimates. The item for this department, representing the allowances for those on the retired list, and which is one of the principal, is in the same position as the public debt, but still more sacred, as it is the debt for blood shed in gaining the independence and defending the liberty of the Republic.

The item for benefactions and rewards, which amounts to 167,723 dollars, has gone on increasing from year to year, in proportion as the state of the Treasury has been growing worse; it was very little during the years which succeeded the period of the great losses and great sacrifices in acquiring independence. The debtor who cannot pay what he justly owes is in a state of absolute incapacity to bestow bounties and donations, because he does not dispose of what is his own, but of that which belongs to others. Nevertheless, when the public faith has once been pledged, although it may have been with notorious imprudence, it would be improper to break it. This item, therefore, can neither be rejected nor even reduced; and as some of the old pensioners, both military and civil, who have been deprived of their pensions, have proved themselves entitled to them, or not in a position to suffer the penalty of deprivation, equity demands that they be restored. But if no fresh bounties be granted, it will be sufficient to cause the gradual diminution of this item.

The expenses of public works, which appear in the estimates,

proceed either from contracts which must be fulfilled, or are calculated to avoid a larger outlay hereafter.

In the judicial department, far from any reduction of the expenses being possible, it is necessary to augment them. Under the federal system the supreme tribunal acquires such a degree of importance from the new and exalted functions which it is called upon to exercise, that it will be necessary to increase the number of persons employed, as well as their salaries; at the same time the establishment of national tribunals in the States will necessarily occasion a new expenditure.

The sum estimated for the department of Foreign Affairs, has been considerably increased by an extraordinary item for the expenses of the Commissioners who are to examine the claims of citizens of The United States against the Republic. Neither that item, nor those relating to the legations accredited in Europe and The United States, admit of reduction, for all of them are indispensable.

In the Government Department, the present reduced expenses can only be in some degree diminished if, by reason of the constitutional reform, the legislative body be modified, and its high functions reduced to a few objects, upon which, when the laws for their organization are once passed there will not be much necessity for legislation; and consequently so many members will not be required, nor need their meetings be so frequent, nor the sessions so long as under the central *régime*, when the entire legislation was vested in the Congress.

From the above statement it appears that the reduction of the estimates is impossible in regard to the heaviest items, and that the others admit only of insignificant savings. This is owing to the expenses not having for their principal object the payment of present services, but of past services which have entailed obligations on the Republic which cannot be declined. Setting aside the sum calculated for paying the interest on the consolidated debt, the capital and interest on the floating debt, pensions and pay of the retired list, salaries of persons employed in the collection and administration of the revenue, it will be seen that the expenses of the Government, properly speaking, including the Home and Foreign Departments, with those of Justice, War, and Public Works, suppressing all extraordinary items, amount only to 260,000 dollars.

The Custom-House revenue, which is the most productive, and the best which could possibly be established in the present condition of the Republic, offers a flattering prospect for the future; because our industry, applied to objects for exportation, improves remarkably under the beneficial influence of security and peace.

If those guardian angels of the prosperity of nations remain constant, the advance of our wealth and population will, in a few years, be sufficient to double the returns of our Custom-Houses; and what is most necessary for the attainment of that benefit, after the possession of laws which consolidate security, is that proprietors, capitalists, and speculators should feel convinced that to obtain the order and security of which they stand so much in need, the most effectual means is to co-operate actively and resolutely for the maintenance of those advantages.

This branch of the revenue, as well as all others which consist of indirect taxation, in order that it may be more equitable, cause less embarrassment to industry and be more uniformly productive, should not be subject to frequent alterations. Whatever be the form of a tax, whether it be imposed directly upon capital, or upon income, whether in throwing a burden upon some operations of industry, it indirectly affects the returns, the natural laws which prevail in fixing the value of services and things, and in the distribution of riches in society, will always cause the impost to fall definitively upon the consumption, and it will not be in the power of the legislator, or the administrator to prevent it; but the burden will be distributed more generally and proportionably, according as the impost is the older and more constant. Therefore every important alteration in the financial system of a country, every substitution of a new tax for an old one, disturbing the established relations in the values of services and things, produces a lamentable confusion in industry, and causes the burden of the impost to weigh irregularly for some time, on a large number of producers and consumers. Notwithstanding this conviction, the Executive Power found itself under the necessity of acting upon the authority granted by Congress by law of the 15th May last, which sanctioned an increase of 25 per cent. upon the importation duties; they were only increased, however, 23 per cent. The reason for so doing was not only the known insufficiency of the returns to provide for the most indispensable expenses, but also the considerable falling off which the revenue must necessarily suffer, and is suffering, owing to the laws passed by the Assemblies of the States, appropriating the stamp duty to themselves, or abolishing it altogether.

The measures which are most urgently required, with regard to the Custom-Houses, are these: to authorize the farming of at least half the produce; to abolish the exemption granted to certain territories; and to adopt more efficient means for the suppression of smuggling.

Experience has constantly proved both that official efforts are impotent in the struggle against personal interest, when the latter finds important advantage in opposing those efforts; and that what

official efforts cannot compass, is obtained without much difficulty by individual interest. Consequently, the most efficient means to contend against the incitement to smuggling is to oppose that same personal interest to it; and to the desire of gain which entices the merchant into fraud, to oppose the desire of gain in the farmer of the revenue. Last year a project was submitted to the Chambers with a report fixing the bases for that measure; therefore, I need not now point out the conditions which must form part of it.

The exemption granted to the territory lying eastward of the Oriental Cordillera, without having produced any sensible advantage to its inhabitants, has caused considerable expense to the Treasury, whilst the frauds committed have diminished the due returns of the Customs. The prices of foreign merchandise are nearly the same in that territory as they were before the exemption was granted, and the few consumers it contains have consequently derived no benefit, the only persons who have profited by the exemption being the few importers, some of them foreigners. Between the eastern plains and the villages of the Cordillera, there are many bad roads, through deserted regions, which it is impossible to guard without numerous and well-paid excise officers. For this reason the Custom-Houses established at Sácama, Labranza-Grande, and Quetame have been perfectly useless, and contraband goods have passed without obstacle by those very roads, or by others of the many that there are. Neither has the Chocó territory derived any sensible advantage from the exemption; while the nation has had to bear the annoyance of the smuggling, and the expense of the unproductive Custom-Houses.

The penalties established against defrauders of the Customs are too lenient, the proceedings for enforcing them ineffective, and the inducements for the prosecution insufficient. It is therefore necessary to improve the legislation on these three points.

The revenue from the salt works, the progress of which depends upon the increase of the population, and the creation and improvement of the means of communication, advances but slowly; if, however, the necessary measures be taken to repress the causes of decline with which it is threatened, its progress, though not rapid, will be sure. There are two sources of diminution for the returns of this revenue; the free importation of the Costa Rica salt to the towns where the salt from the works of the Republic is consumed; and the discovery which may be made of salt pits in the territory where the working of salt is free. The remedy for the first of these ruinous causes is to re-establish the importation duties; and for the second, to lay a tax upon the salt produced at private works, when the price of it is below that of the salt produced at the works of the Republic. In taking the latter step it must be borne in mind

that from the high price which it bears in that territory, salt of very bad quality is worked, mixed up with foreign substances, and which, on that account, bears a low price as compared with what is good; it is the price of the latter that should be taken as the basis for the tax.

No deposits of rock salt, nor salt springs so rich and abundant as to be worked with advantage on account of the Royal Treasury, having been found in the territory which now surrounds the States of Cauca and Antioquia, and salt being, in consequence, very dear in those parts, the Sovereigns of Spain allowed private persons to work on their own account, and to claim as their own property the little salt springs which were discovered there. This continued until a law of the Republic, declaring that all unappropriated salt works belonged to itself, was considered to have withdrawn that favour, which had not operated to lower the price of salt, for it has usually been double what it is in towns where the salt produced at the works of the Republic is consumed. The said favour was afterwards restored and extended to the territory comprised in the Provinces of Neiva and Mariquita, although, in regard to these there were not the same grounds. The measure which I propose will put an end to the complaints of the towns where the salt produced on account of the Republic is consumed, because it will make all equal, imposing a tax upon those who are now exempt, when the price of the article may be such as to bear the imposition.

The concession of the Revenue from stamped paper made to the State of Panamá, and the intimate relation which it bears to civil legislation, which has now passed within the competency of the States, have induced these to possess themselves of this financial resource, each State having established special stamps for its own business. The Executive Power has not thought proper to contend with the Legislatures as to their right of deciding on what kind of paper the documents should be written in matters of which the arrangement belongs to them; but the Executive Power was not of the same opinion when the question was the taking possession of the national paper and of the money obtained by its sale, because the cases are essentially different. This revenue, then, is lost to the Republic, for although the obligation is still in force to use paper with the Republic's stamp in matters of national import, the returns from that source will be insignificant. If this provision be maintained it will be well to raise the amount of the stamp, and to extend the period of its validity to 3 or 4 years, in order to lessen the expense of preparing the paper and the vexatious operation of its annual distribution.

The reformation made in the national coin by the law of the

30th of June last, has been successful. The mints have been employed again with advantage to the Treasury and to trade.

The new political form given to the Republic, transferring to the Government of the States the judicial and administrative service which has to preside over the management of the posts having their central stations in the capitals of the States, made a reformation of this branch necessary; in consequence of which the service of the national posts is restricted to the lines from the capital of the Republic to foreign parts, to the capitals of the States, and to places where there are Custom-Houses or salt works carried on on account of the Republic; the States themselves having to establish and regulate the posts of which they have need.

The increasing alarm in trade on account of the insecurity of consignments and correspondence circulating by the River Magdalena; the want of the indispensable means for imparting the necessary regularity and security to the course of the mails on that river; the desire of obtaining those conditions, and the evident advantage of getting the steam navigation on that river established regularly and periodically, have induced the Executive Power to enter into a contract for the conveyance of the mails with the Company whose steamers are employed in that navigation. Some difficulties have been met with in carrying out that arrangement, and it has as yet only answered part of the proposed ends; nevertheless it is a step in the right direction, for steam navigation is gaining ground every day, while that by manual labour is losing it; and it cannot be long before the former entirely supersedes the latter, unless indeed our industry, instead of progressing, becomes paralysed and retrograde.

The arrangement proposed to our foreign creditors, in virtue of the law of the 25th of June, 1856, was not accepted by them, and their Representatives made several proposals, not adopting any other idea contained in the arrangement offered according to the law, except the issue in their favour of bonds admissible in payment of 25 units of the import duties, on account of the arrears of interest. The Executive Power has not been able to accede to those proposals, because they are not in accordance with the law, nor does the state of the Treasury allow the fulfilment of what they demand.

The comparison made in another part of this message between the income and the expenditure, clearly proves that although the Congress and the Executive Power entertain the most earnest and sincere desire religiously to fulfil the engagements entered into with the foreign creditors of the Republic, it is not in their power to do so at present. The interest on the foreign debt due and unpaid

up to the 31st of December last, amounts to 2,029,626 dollars, and the interest for the next financial year to 922,557 dollars, amounting together to 2,952,183 dollars. It is unnecessary to make any observation in order to convince you of the impossibility of paying this sum with our present means. As in each succeeding year the amount of the annual interest will increase a quarter per cent., according to the existing agreement, the difficulty will become continually greater.

When, in 1845, an arrangement was entered into with the bondholders, a considerable abatement of the sum due for arrears of interest was obtained; it was also agreed that the active debt, during some years, should only bear a part of the interest stipulated when the debt was contracted, and that the arrears of interest should be capitalized, without bearing interest for 16 years, at the expiration of which it was to bear 1 per cent., to be augmented annually, until it reached 3 per cent. These concessions were made in consideration of the inability of the Republic to pay the annual interest on the active debt, and the arrears of interest then due, and in the hope that the new arrangement would be punctually fulfilled. I have no doubt that such would have been the case, if a large part of the revenue which then existed, and upon which the calculations which led to the agreement were founded, had not been destroyed.

The Republic possesses property more than enough to pay her debts, but the unfortunate circumstances which have pressed upon her, have almost rendered it useless. More than 80,000,000 hectares of waste lands, emerald and silver mines, the profits accruing from the Panamá Railroad, and many other valuable possessions, ought now to be sufficient to cover all our liabilities, and to leave a very considerable surplus to our credit, if we had succeeded in inspiring abroad the confidence that is enjoyed by the North American Union, Chile, or even Brazil; and I have no doubt that we shall gain it we firmly establish public order and give unquestionable guarantees for the security of life and property. But in the meantime those great possessions cannot extricate the Republic from her present difficulties.

The floating debt, the amortization of which absorbs 42 per cent. of the total revenue, will be in part redeemed within a few years. The 1st, 2nd, 3rd and 9th classes will be extinguished in the year 1859, and consequently 47½ units of the import duties now applied to the payment of that debt will become available. The 4th class now absorbing 12 units, will be redeemed in 1860, and the 5th class representing 15 units in 1862. Thus remaining available for other objects 74½ units of the 109½ now applied to the redemption of the floating debt. These units as they become free must be applied, in

preference, to the amortization of the Treasury debt, the interest of which weighs very heavily, being for the most part 18 per cent. per annum.

In case a practicable arrangement can be made with the bondholders, that part of the importation duties may be applied to the fulfilment of the engagements contracted with them. Should the creditors become convinced of the real situation of the Treasury of the Republic, and be content to wait a few years for the full payment of the interest, on condition of a gradual augmentation as in 1845, they may be assured that their documents will rise in value and, at the end of a few years, the annual interest being punctually paid, the bonds will be at par in the market.

Until the arrangement be made the bonds of the foreign debt, for capital and interest, might be admitted in payment of the units of the import duties which become free after the Treasury Debt, bearing a high interest, is cleared off; augmenting the number of units in proportion as the value of the paper rises in the market; but in such a manner that importers should find it to be their interest to make their payments in such paper rather than in cash.

Fully confiding in your wisdom and patriotism, and convinced that the Almighty who protects the innocent and Catholic Granadian People, and who has preserved the Republic from anarchy in the dangerous crisis we have just gone through, favours righteous intentions, I trust that your labours will be crowned with success, and that New Granada will receive from your enlightened zeal, a Constitution which, rendering liberty and security effective, will ensure order and peace for ever. I recommend to your attention the statements which will be made to you by the Secretaries of the different departments, in their detailed reports of the various matters within the sphere of your authority.

MARIANO OSPINA.

SPEECH of the King of Saxony, on the Opening of the Diet.—Dresden, May 25, 1859.

(Translation.)

GENTLEMEN,

THE momentous circumstances of the time have induced me to assemble you again in my presence after a short interval. After a peace of more than 40 years, war has again been kindled in the heart of Europe, and threatens to call in question the treaties on which her rights are materially based.

The Germanic Confederation could not remain indifferent spectators. They resolved to arm in order to guard their safety and honour; and Saxony, as a faithful member of the Confederation,

has, without delay put her army into the requisite state of readiness. Hard as it is to my paternal heart, to impose new taxes upon my people, I find myself compelled to apply to you for the grant of the pecuniary means necessary under these circumstances, and I am quite convinced that you will promtly supply them with patriotic readiness.

The particulars thereof shall be laid before you, as well as some urgent legislative measures imposed by the present circumstances, for your supplemental approval.

However serious the times which we are to encounter, the conscientiousness supports me that I have always raised my voice for everything that the honour of Germany and the preservation of the principle of right upon which the confederation of her states rests, seemed to command; the conscientiousness supports me, that the whole Saxon nation shares my sentiments herein. Those liable to serve in the army have readily obeyed my call to arms, and joyfully flocked to the Saxon standard. And thus the hard trial will only serve still more to strengthen the ties between the Sovereign and the people, the sincerity of which has in the latter times manifested itself so nobly in joy and sorrow.

Should it come to a struggle for the just cause, God will—as I confidently trust—be with us and the whole German fatherland.

TREATY of Friendship, Commerce, and Navigation, between Denmark and Siam.—Signed at Bangkok, May* 21, 1858.

[Ratifications exchanged at Bangkok, September 15, 1859.]

His Majesty Frederick VII, King of Denmark, of the Vandals and Goths, Duke of Schleswig, Holstein, Stormarn, the Dithmarshes, Lauenburg and Oldenburg; and their Majesties, Phra Bard Somdetch Phra Paramendr Maha Mongkut, Phra Chom Klau Chau Yu Hua the first King of Siam, and Phra Bard Somdetch Phra Pawarendr Ramesr, Mahiswaresr Phra Pin Klau Chau Yu Hua the second King of Siam;

Desiring to facilitate and extend their relations of good understanding and trade, between their respective subjects, have resolved to conclude a Treaty of Friendship, Commerce and Navigation, based on the common interests of both countries, and have therefore, to that end, named their Plenipotentiaries; that is to say,

His Majesty the King of Denmark has named John Jarvie, Esquire, Consul of Denmark for Singapore.

* Signed also in the Danish and German languages.

And their Majesties the first and second Kings of Siam, have named His Royal Highness Krom Hluang Wongsa Dhiraj Suidh, his Lordship Chau Phaya Sri Suriywongse Samant Bongs Bisuddhe Maha Purus Ratnedom Samuha Phra Kralahome (the Prime Minister), his Lordship Chaw Phaya Rawe Wongs Maha Kosadhiputi (the Minister for Foreign Affairs), his Lordship Chau Phaya Yomaraj (the Lord Mayor of the City of Bangkok), his Excellency Phaya Wora Bongse Bibadhne (Superintendent of the Royal Private Ministers), who, after having communicated to each other their respective full powers, and found them to be in good and due form, have agreed upon and concluded the following Articles:

ART. I. There shall be constant peace and perpetual friendship, between his Majesty the King of Denmark, his heirs and successors on the one part, and their Majesties the first and second Kings of Siam, their heirs and successors on the other part, as well as between the subjects of both States, without exception of persons and places.

The subjects of each shall enjoy in the country of the other full and entire protection for their persons and property, agreeably to to the established laws.

There shall be full and entire freedom of commerce and navigation, for the subjects and vessels of the two High Contracting Powers, in every portion of their respective territories, where trade or navigation is actually allowed, or may hereafter be allowed, to the subjects or vessels of the most favoured nation.

Danish ships of war shall render friendly aid and assistance to such Siamese vessels as they may meet on the high seas, so far as can be done in accordance with international law, and all Danish Consuls residing at ports visited by Siamese, shall also afford them such friendly aid as may be permitted by the laws of the respective countries, in which the Consuls reside.

II. The two High Contracting Powers recognize reciprocally the right to establish and appoint, in the ports and the towns of their respective States, Consuls and Consular Agents; and that these officers shall enjoy the same privileges, immunities, powers and exemptions, as are or may be enjoyed by those of the most favoured nation. Such Consuls or Consular Agents, however, shall not begin to exercise their functions, until they shall have received the Exequatur of the Local Government. Danish Consuls or Consular Agents in Siam shall be at liberty to hoist their national flag over their Consulates.

The Danish Consul or Consular Agent in Siam shall have the interests of all the Danish subjects in or coming to Siam, under his protection, regulation and control. He shall himself conform to all the provisions of this Treaty, and enforce the observance of the

same by Danish subjects. He shall also promulgate, and give due effect to all rules and regulations, which are now, or may hereafter be enacted, for the government of Danish subjects in Siam, the conduct of their business, and their due observance of the laws of Siam.

Should the Consul or Consular Agent be absent, Danish subjects visiting or residing in Siam may have recourse to the intervention of a Consul of a friendly nation, or they may address themselves directly to the local authorities, and the said authorities shall take means to secure to such Danish subjects, all the benefits of the present Treaty.

III. Danish subjects visiting or residing in Siam shall be allowed the free exercise of their religious belief and worship, and be at liberty to build churches, in such convenient localities as shall be consented to by the Siamese authorities, and such consent shall not be withheld, without sufficient reason being assigned.

IV. Danish subjects wishing to reside in the Kingdom of Siam must be registered at the Consulate of Denmark, a copy of which registration to be furnished to the Siamese authorities. Whenever a Danish subject shall have recourse to the Siamese authorities, his petition or claim must be first submitted to the Consul of Denmark, and if the petition or claim appear to the Consul to be reasonable, and written with propriety, he shall forward it, or otherwise modify its contents. The Siamese on their part, when they shall have to address themselves to the Consulate of Denmark, shall follow a similar course, in first addressing themselves to the Siamese authorities, who shall act in like manner.

V. Danish subjects who shall reside in a permanent manner in Siam, shall for the present do so only in the city of Bangkok, or within a limit defined by the following boundaries, viz.:

1. On the North.—By the Bang Putsa Canal from its mouth on the Chau Phya River, to the old city walls of Lobpury, and a straight line from Lobpury to the landing place of Tha Phrangam, near to the town of Saraburi, on the river Pasak.

2. On the East.—By a straight line drawn from the landing place of Tha Phrangam, to the junction of Klongkut Canal, with the Bangpakong River; the Bangpakong River from the junction of the Klongkut Canal, to its mouth; and the coast from the mouth of the Bangpakong River to the island of Srimaharajah, to such distance inland as can be reached, within 24 hours journey, from Bangkok.

3. On the South.—By the Island of Srimaharajah and the Islands of Se-Chang on the east side of the gulf, and the city walls of Petchaburi on the west side.

4. On the West.—By the western coast of the gulf to the mouth

of the Meklong River, to such a distance inland as can be reached within 24 hours journey from Bangkok. The Meklong River, from its mouth, to the city walls of Rajpuri. A straight line from the city walls of Rajpuri, to the town of Suphanapuri; and a straight line from Suphanapuri to the mouth of the Bangputsa Canal, on the Chau Phya River.

But Danish subjects may reside beyond these boundaries, on obtaining permission to do so, from the Siamese authorities.

All Danish subjects are at liberty to travel throughout the entire Kingdom of Siam, and to trade by buying and selling merchandize, not being contraband, from and to whomsoever they shall think proper; this privilege being in no way whatever affected by any farm or exclusive right of sale and purchase.

VI. The Siamese Government will place no restrictions upon the employment by Danish subjects of Siamese subjects, in any capacity whatever. But whenever a Siamese subject belongs or owes service to some particular master, the servant who engages himself to a Danish subject, without the consent of his master, may be reclaimed by him, and the Siamese Government will not enforce an agreement for services, between a Danish subject and any Siamese in his employment, unless made with the knowledge and consent of the master,

If Siamese in the employment of a Danish subject offend against the laws of Siam, or if any Siamese having so offended, or desiring to desert, take refuge with a Danish subject in Siam, they shall be searched for, and, upon proof of their guilt or desertion, they shall be delivered up by the Consul to the Siamese authorities.

VII. Danish subjects shall not be detained against their will in the Kingdom of Siam, unless the Siamese authorities shall prove to the Consul of Denmark that there are lawful reasons for such detention.

Within the boundaries fixed by Article V of this Treaty, Danish subjects shall be at liberty to travel without hindrance or delays of any kind whatsoever, provided they have a passport signed by the Consul or Consular Agent of Denmark, containing in Siamese characters their names, profession and identity, and countersigned by the competent Siamese authority.

Should they wish to go beyond the said limit and travel in the interior of the Kingdom of Siam, they shall procure for themselves a passport, which shall be delivered to them on the request of the Consul or Consular Agent by the Siamese authorities, and such passport shall not be refused in any instance, except with concurrence of the Danish Consul or Consular Agent.

VIII. Danish subjects may purchase land or plantations, and may take on lease or let land and plantations, and may

hire, buy, or build houses, within the boundaries specified by Article V, with this exception and limitation only, that the power to purchase lands in the city of Bangkok, or within four British statute miles from its walls, shall be confined to those who shall have resided in Siam for 10 years, or who shall obtain a special licence from the Siamese Government. In order to obtain possession of such property, the Danish subject shall in the first place, make application through the Consul to the Siamese Government, and the Siamese Government shall name an officer who, along with the Consul (having satisfied themselves of the honest intentions of the applicant), shall adjust and settle upon equitable terms the amount of the purchase money, and shall make out and fix the boundaries of the property. The Siamese Government shall then convey the property to the Danish purchaser, and such property shall thereupon be under the protection of the governor of the district, and of the particular local authorities; the said purchaser shall conform, in ordinary matters, to any just direction to be given to him by them, and he shall be subject to the same taxation as that levied on Siamese subjects. But if, through negligence, the want of capital, or other causes, a Danish subject shall fail to commence the cultivation or improvement of the lands so acquired within a term of 3 years from the date of receiving possession thereof, the Siamese Government shall have the power of resuming the property upon returning to the Danish subject the purchase money paid by him for the same.

Danish subjects shall be at liberty to search for and open mines in any part of Siam; and, on a proper exposition being furnished to the Consul, he, in conjunction with the Siamese authorities, shall arrange such suitable conditions and terms as shall admit of the mines being worked. Danish subjects shall also be permitted to engage in and carry on any description of manufacture in Siam (the same not being contrary to law), upon like reasonable conditions and terms, arranged between the Consul and Siamese authorities

IX. When a Danish subject, residing permanently or temporarily in the Kingdom of Siam, shall have any subject of complaint or any claim to make against a Siamese, he shall first submit his grievances to the Consul of Denmark, who after having examined the affair shall endeavour to settle it amicably. In the same manner, when a Siamese shall have to complain against a Danish subject, the Consul shall hear the complaint, and try to make an amicable settlement; but if in such cases this is impossible, the Consul shall apply to a competent Siamese functionary, and both, after having together examined the affair, shall decide thereon according to equity.

X. Should a Danish subject be charged with any grave crime in the Kingdom of Siam, he shall be arrested by the local authorities,

on the coast or in the vicinity of the K
rities of the nearest place, on being
afford every assistance in the capture of
the stolen property, which shall be d
restoration to the owners. The same
the Siamese authorities in all acts of pi
on the property of Danish subjects on s
ment shall not be held responsible for
Danish subjects, when it is proved tha
have been used for its recovery, and th
equally to Siamese subjects and proper
Danish Government.

XII. On the Danish Consul send
the Siamese authorities he shall receiv
support in detecting and arresting D
other individuals under the protection
requisition of the Danish Consul, he
Siamese authorities every aid and ass
may be necessary to enable him to give
over Danish subjects, and to enforc
shipping in Siam. In like manner, s
desertion or any other crime, take refu
subject, or on board a Danish vessel
address themselves to the Consul of
proof of the culpability of the accuse
arrest. All concealment and connivan
by both parties

the effects of Siamese subjects who may become bankrupt in their commercial transactions with Danish subjects.

XIV. Should a Siamese subject refuse or evade the payment of a debt to a Danish subject, the Siamese authorities shall afford the creditor every aid and facility to recover all that is due to him. In like manner, the Consul of Denmark shall give every assistance to Siamese subjects to recover debts which may be due to them by Danish subjects.

XV. The goods and property of any Danish subject who may die in the Kingdom of Siam, or of any Siamese subject who may die in Denmark, shall be delivered to the executor of his will, or (in case of intestacy) to the Consul or Consular Agent, to be dealt with according to the laws of the nation to which the deceased belonged.

XVI. Danish ships of war shall be at liberty to enter the river and anchor at Paknam, but they must inform the Siamese authorities of their intention of go up to Bangkok, and have an understanding with the said authorities concerning the place where they are to anchor.

XVII. Should a Danish vessel in distress enter into a Siamese port, the local authorities shall give every facility for her being repaired and revictualled, so that she may be enabled to continue her voyage. Should a Danish vessel be wrecked on the coast of the Kingdom of Siam, the Siamese authorities of the nearest place, being informed thereof, shall immediately give all assistance to the crew, shall supply their wants, and take all measures necessary for the salvage and protection of the vessel and cargo, and shall afterwards inform the Consul of Denmark of what has been done by the said authorities, in order that the Consul, together with the competent Siamese authority, may take steps for sending the crew to their homes, and for preserving and disposing of the wreck and cargo, and adjusting any legal claims thereon.

XVIII. By paying the duties of importation and exportation, as after mentioned, Danish vessels and their cargoes shall be free in Siamese ports of all taxes of tonnage, pilotage, anchorage, and of any other tax whatever, either on their arrival or on their departure. Danish vessels shall enjoy all privileges and immunities which are or shall be granted to junks and to Siamese vessels themselves, as well as to the vessels of the most favoured nations.

XIX. The duties to be levied on merchandize imported by Danish vessels into the Kingdom of Siam, shall not exceed 3 per cent. on their value. They shall be paid in kind or in money, at the choice of the importers. If the importer cannot agree with the Siamese officer as to the value of the imported merchandize, a reference shall be made to the Consul of Denmark and a competent

and be punished by the Consul according to the laws of Denmark, or be transmitted by him to Denmark, to receive punishment on being found guilty. Should a Danish subject commit any minor offence or misdemeanour in Siam, he shall in like manner be arrested by the Siamese authorities, and, on proof of his guilt, the Consul will punish him, either by deportation or pecuniary mulct. If a Siamese be guilty of any crime or offence against a Danish subject, the offender shall be arrested by the local authorities, and made over to the severity of the laws of the kingdom.

XI. Should any act of piracy be committed on Danish vessels on the coast or in the vicinity of the Kingdom of Siam, the authorities of the nearest place, on being informed of the same, shall afford every assistance in the capture of the pirates, and recovery of the stolen property, which shall be delivered to the Consul for restoration to the owners. The same course shall be followed by the Siamese authorities in all acts of pillage and robbery committed on the property of Danish subjects on shore. The Siamese Government shall not be held responsible for stolen property belonging to Danish subjects, when it is proved that every means in their power have been used for its recovery, and the same conditions shall apply equally to Siamese subjects and property, under the control of the Danish Government.

XII. On the Danish Consul sending a written application to the Siamese authorities he shall receive from them every aid and support in detecting and arresting Danish sailors or subjects, or other individuals under the protection of the Danish flag. On the requisition of the Danish Consul, he shall also receive from the Siamese authorities every aid and assistance, and such a force as may be necessary to enable him to give due effect to his authority over Danish subjects, and to enforce discipline among Danish shipping in Siam. In like manner, should a Siamese, guilty of desertion or any other crime, take refuge in the house of a Danish subject, or on board a Danish vessel, the local authorities shall address themselves to the Consul of Denmark, and he shall, on proof of the culpability of the accused, immediately authorize his arrest. All concealment and connivance shall be carefully avoided by both parties.

XIII. Should a Danish subject engaged in business in the Kingdom of Siam become bankrupt, the Consul of Denmark shall take possession of all his goods, in order that the same may be distributed rateably amongst his creditors; and the Consul shall neglect no means to seize, on behalf of creditors, all the goods the said bankrupt may possess in other countries, and the Consul shall have the aid of the Siamese authorities for the purpose. And, in like manner, the Siamese authorities shall adjudicate and administer

the effects of Siamese subjects who may become bankrupt in their commercial transactions with Danish subjects.

XIV. Should a Siamese subject refuse or evade the payment of a debt to a Danish subject, the Siamese authorities shall afford the creditor every aid and facility to recover all that is due to him. In like manner, the Consul of Denmark shall give every assistance to Siamese subjects to recover debts which may be due to them by Danish subjects.

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XIX. The duties to be levied on merchandize imported by Danish vessels into the Kingdom of Siam, shall not exceed 3 per cent. on their value. They shall be paid in kind or in money, at the choice of the importers. If the importer cannot agree with the Siamese officer as to the value of the imported merchandize, a reference shall be made to the Consul of Denmark and a competent

Siamese functionary, who, after having each called in for consultation one or two merchants as advisers, if they shall think it necessary, shall settle the difference according to justice.

After the payment of the said import duty of 3 per cent. the merchandize may be sold by wholesale or retail, free of any other tax or charge whatsoever. Should merchandize be landed and not sold, and be again shipped for exportation, the whole of the duties paid on them shall be reimbursed. No duty shall be levied on any cargo not sold. And no further duty, tax, or charge shall be imposed or levied on such imported merchandize when it has passed into the hands of Siamese purchasers.

XX. The duties to be levied on Siamese produce, either before or at the time of shipment, shall be according to tariff, annexed to the present Treaty. Every article of produce subject by the tariff to duties of exportation shall be free of any duty of transit, or any other duty in any part of the Kingdom; and all Siamese produce which shall have been already taxed either for transit, or for any other cause, shall be no more taxed either under the tariff hereto annexed, or in any way whatever before or at the time of shipment.

The Siamese Government reserves to itself the right, at any time hereafter, to impose a single tax or duty upon any article which is, or may become a production of Siam, and which is not specified in the annexed tariff, or at present subject, either directly or indirectly, to a Governmental charge of any kind, but the Siamese Government agrees that the said tax or duty, if levied, shall be just and reasonable.

XXI. By paying the duties above mentioned, which shall not be increased in future, Danish subjects shall be free to import into the Kingdom of Siam, from Danish and foreign ports, and likewise to export for all destinations any merchandize which shall not be, on the day of the signing of the present Treaty, the object of a formal prohibition or of a special monopoly. The Siamese Government reserve to themselves, however, the right of prohibiting the exportation of salt, rice, or fish, whenever they shall think that there is reason to apprehend a dearth in the country. But the prohibition, which must be published one month before being enforced, shall not have any effect on the fulfilment of contracts, made *bonâ fide* before the publication of such prohibition. Danish merchants, however, shall inform the Siamese authorities of any purchases they may have made previously to the prohibition. Specie, provisions, and personal effects may be imported and exported, free of duty. Should the Siamese Government hereafter reduce the duties on merchandize, imported or exported, by Siamese or any other vessels, the benefit of this reduction shall be immediately applied to similar produce imported or exported by Danish vessels.

XXII. The Consul of Denmark shall see that Danish merchants and shipmasters conform themselves to the regulations annexed to the present Treaty, and the Siamese authorities shall aid him to that end. All fines levied for infractions of the present Treaty shall belong to the Siamese Government.

XXIII. The Danish Government and Danish subjects shall be allowed free and equal participation in any privileges that may have been, or may hereafter be granted by the Siamese Government to the Government, citizens, or subjects of any other nation.

XXIV. After the lapse of 12 years from the date of the ratification of this Treaty, upon the desire of either of the High Contracting Parties, and on 12 months' notice thereof, this Treaty, together with the Tariff and regulations hereunto annexed, and those that may hereafter be introduced, shall be subject to revision by Commissioners to be appointed on both sides for the purpose, with power to make such alterations, additions, and amendments as experience may prove to be desirable.

XXV. This Treaty, executed in English, as the language of communication between the two High Contracting Powers, and of which Treaty a translation in the Siamese character is appended, shall take effect immediately, and the ratification of the same shall be exchanged at Bangkok, within 18 months from the date thereof.

In witness whereof the above-named Plenipotentiaries have signed and sealed the present Treaty in triplicate, at Bangkok, on the 21st day of May, in the year 1858 of the Christian era, corresponding with the 9th waxing day of the 7th moon, of the 1220th year of the Siamese civil era.

(L.S.) J. JARVIE.

(Signatures and seals of the 5 Siamese Plenipotentiaries.)

General Regulations under which Danish Trade is to be conducted in Siam.

REGULATION I. The master of every Danish ship coming to Bangkok to trade, must, either before or after entering the river, as may be found convenient, report the arrival of his vessel at the Custom-House at Paknam, together with the number of his crew and guns, and the port from whence he comes. Upon anchoring his vessel at Paknam, he will deliver into the custody of the Custom-House officers all his guns and ammunition, and a Custom-House officer will then be appointed to the vessel, and will proceed in her to Bangkok.

REGULATION II. A vessel passing Paknam without discharging her guns and ammunition as directed in the foregoing regulation,

will be sent back to Paknam to comply with its provisions, and will be liable to a fine not exceeding 800 ticals, for having so disobeyed. After delivery of her guns and ammunition she will be permitted to return to Bangkok to trade.

REGULATION III. When a Danish vessel shall have cast anchor at Bangkok, the master, unless a holiday should intervene, will within 24 hours after arrival, proceed to the Danish Consulate, and there deposit his ship's papers, bills of lading, &c., together with a true manifest of his import cargo, and upon the Consul reporting these particulars to the Custom-House, permission to break bulk will at once be given by the latter.

For neglecting so to report his arrival, or for presenting a false manifest, the master will subject himself in each instance to a penalty not exceeding 400 ticals; but he will be allowed to correct, within 24 hours after delivery of it to the Consul, any mistake he may discover in his manifest without incurring any penalty.

REGULATION IV. A Danish vessel breaking bulk and commencing to discharge before due permission shall be obtained, or smuggling either when in the river or outside the bar, shall be subject to a penalty not exceeding 800 ticals, and confiscation of the goods so smuggled or discharged.

REGULATION V. As soon as a Danish vessel shall have discharged her cargo, and completed her outward lading, paid all her duties, and delivered a true manifest of her outward cargo to the Danish Consul, a Siamese port clearance shall be granted her on application from the Consul, who, in the absence of any legal impediment to her departure, will then return to the master his ship's papers, and allow the vessel to leave. A Custom-House officer will accompany the vessel to Paknam, and on arriving there she will be inspected by the Custom-House officers of that station, and will receive from them the guns and ammunition previously delivered into their charge.

REGULATION VI. All Custom-House officers shall carry a badge, by which they can be distinguished, when acting officially, and only two Custom-House officers shall be allowed on board a Danish vessel at one time, unless a greater number should be required to effect the seizure of smuggled goods.

(L.S.) J. JARVIS

(Signatures and seals of the 5 Siamese Plenipotentiaries.)

Tariff of Export and Inland Duties to be levied on Articles of Trade.

§ 1. The undermentioned articles shall be entirely free from inland or other taxes on production or transit, and shall pay export duty as follows:

	Ticals.	Salungs.	Fuangs.	
1. Ivory	10	0	0	Per picul.
2. Gamboge	6	0	0	„
3. Rhinoceros horns	50	0	0	„
4. Cardamums, best	14	0	0	„
5. Ditto, bastard	6	0	0	„
6. Dried mussels	1	0	0	„
7. Pelicans quills	2	2	0	„
8. Betel nut, dried	1	0	0	„
9. Krachi wood	0	2	0	„
10. Sharks fins, white	6	0	0	„
11. Ditto, black	3	0	0	„
12. Lukkrabau seed	0	2	0	„
13. Peacocks tails	10	0	0	Per 100.
14. Buffalo and cow bones	..	..	..	3 huns per picul.
15. Rhinoceros hides	0	2	0	„
16. Hide cuttings	0	1	0	„
17. Turtle shells	1	0	0	„
18 Soft ditto	1	0	0	„
19. Beche de mer	3	0	0	„
20. Fish maws	3	0	0	„
21. Birds nests, uncleaned	..	..	..	20 per cent.
22. Kingfishers feathers	6	0	0	Per 100.
23. Cutch	0	2	0	Per picul.
24. Beyche seed (nux vomica)	0	2	0	„
25. Pungtarai seed	0	2	0	„
26. Gum benjamin	4	0	0	„
27. Augrai bark	0	2	0	„
28. Agilla wood	2	0	0	„
29. Ray skins	3	0	0	„
30. Old deers horns	0	1	0	„
31. Soft or young ditto	..	..	..	10 per cent.
32. Deer hides, fine	3	0	0	Per 100.
33. Ditto, common	3	0	0	„
34. Deer sinews	4	0	0	Per picul.
35. Buffalo and cow hides	1	0	0	„
36. Elephants bones	1	0	0	„
37. Tigers bones	5	0	0	„
38. Buffalo horns	0	1	0	„
39. Elephants hides	0	1	0	„
40. Tiger skins	0	1	0	Per skin.
41. Armadillo skins	4	0	0	Per picul.
42. Stick lac	1	1	0	„
43. Hemp	1	2	0	„
44. Dried fish-plaheng	1	2	0	„
45. Dried fish-plasalit	1	0	0	„
46. Sapan wood	0	2	1	„
47. Salt meat	2	0	0	„
48. Mangrove bark	0	1	0	„

	Ticals.	Salungs.	Fuangs.	
49. Rosewood	0	2	0	Per picul.
50. Ebony	1	1	0	„
51. Rice	4	0	0	Per koyan.
52. Paddy	2	0	0	„

§ 2. The undermentioned articles being subject to the inland or transit duties herein named, and which shall not be increased, shall be exempt from export duty.

	Ticals.	Salungs.	Fuangs.	
53. Sugar, white	0	2	0	Per picul.
54. Ditto, red	0	1	0	„
55. Cotton, clean and unclean	..	..	..	10 per cent.
56. Pepper	1	0	0	Per picul.
57. Saltish-platu	1	0	0	Per 10,000.
58. Beans and Peas	..	..	..	One-twelfth.
59. Dried prawns	..	..	..	„
60. Tilseed	..	..	..	„
61. Silk, raw	..	..	..	„
62. Bees-wax	..	..	..	One-fifteenth.
63. Tallow	1	0	0	Per picul.
64. Salt	6	0	0	Per koyan.
65. Tobacco	1	2	0	Per 1,000 bundles.

§ 3. All goods or produce unenumerated in this tariff shall be free of export duty, and shall only be subject to one inland tax or transit duty not exceeding the rate now paid.

§ 4. Munitions of war are prohibited, unless sold to the Siamese authorities, or with their consent.

(L.S.) J. JARVIS

(Signatures and seals of the 5 Siamese Plenipotentiaries.)

ARTICLE ADDITIONNEL à la Convention entre les Gouvernements des Etats Riverains du Rhin, du 31 *Mars,* 1831,* *Fait à Mayence, le* 3 *Avril,* 1860.

Son Altesse Royale le Grand-Duc de Bade, Sa Majesté le Roi de Bavière, Sa Majesté l'Empereur des Français, Son Altesse Royale le Grand Duc de Hesse et sur le Rhin, Son Altesse le Duc de

* Vol. XVIII. Page 209.

Nassau, Sa Majesté le Roi des Pays-Bas et Son Altesse Royale le Régent, Prince de Prusse, au nom de Sa Majesté le Roi de Prusse, ayant jugé convenable de changer, par un Article Additionnel à la Convention du 31 Mars, 1831, le siège de la Commission Centrale pour la Navigation du Rhin, ont désigné pour leurs Plénipotentiaires à l'effet de négocier et de signer le dit Article Additionnel, savoir:

Son Altesse Royale le Grand-Duc de Bade, le Sieur Gustave Kühlenthal, son Conseiller intime de Légation;

Sa Majesté le Roi de Bavière, le Sieur Charles de Kleinschrod, son Conseiller intime;

Sa Majesté l'Empereur des Français, le Sieur Théodore Goepp, son Consul de première classe;

Son Altesse Royale le Grand-Duc de Hesse et sur le Rhin, le Sieur Charles Schmitt, son Conseiller intime de Régence;

Son Altesse le Duc de Nassau, le Sieur Frédéric Guillaume Schepp, son Directeur de Régence;

Sa Majesté le Roi des Pays-Bas, le Sieur Jonkheer Emile Testa, son Consul-Général;

Son Altesse Royale le Régent, Prince de Prusse, le Sieur Martin Frédéric Rudolphe Delbrück, son Directeur au Ministère du Commerce, de l'Industrie et des Travaux Publics, lesquels se sont réunis à Mayence munis de pleins-pouvoirs qui ont été reconnus en bonne forme, et ont arrêté l'Article Additionnel suivant:

Les Commissaires, Envoyés par les Etats Riverains à la Commission Centrale, se réuniront désormais à Mannheim.

L'Inspecteur en Chef de la Navigation du Rhin résidera également à Mannheim.

Le présent Article Additionnel, qui aura la même force et valeur que la Convention précitée du 31 Mars, 1831, elle-même, sera ratifié et les ratifications en seront échangées à Mayence dans le délai de 4 semaines.

En foi de quoi les Plénipotentiaires respectifs l'ont signé et y ont apposé leurs sceaux.

Fait à Mayence le 3 Avril, 1860.

(L.S.) GUSTAVE KUHLENTHAL.
(L.S.) CARL VON KLEINSCHROD.
(L.S.) THEODORE GOEPP.
(L.S.) CHARLES SCHMITT.
(L.S.) FREDERIC SCHEPP.
(L.S.) EMILE TESTA.
(L.S.) MARTIN FREDERIC RUDOLPHE DELBRUCK.

TREATY of Peace, Friendship and Alliance between the Equator and Peru.—Signed at Guayaquil, January 25, 1860.

[Ratified by Peru, January 26, 1860, and by the Equator, January 27, 1860.]

(Translation.)

In the Name of God, Creator and Ruler of the Universe.

THE Republics of Peru and the Equator, animated by the American spirit, under the influence of which all the nations of this continent ought to consider themselves as belonging to one sole family; desirous of settling their past differences amicably, of reuniting the bonds which an unjust Cabinet, the unfaithful interpreter of Equatorian feelings, managed to break; and convinced that their independence, common prosperity, and aggrandizement, require that they should enter fully into sincere relations of alliance and friendship; in fulfilment of Articles III, V, and VI of the Convention of the 4th of December, 1859, have resolved to conclude a Treaty of Peace, which shall contain the solution of the questions pending between them, and the principles on which they will fix from this time for ever their interational rights.

With this important object the Republic of Peru has fully authorized its Envoy Extraordinary and Minister Plenipotentiary, Dr. D. Manuel Morales, and that of the Equator, its Minister Plenipotentiary, Dr. D. Nicolas Estrada, who, accompanied by their respective secretaries, Dr. D. Manuel Nicholas Corpancho, Secretary of the Council of Ministers, on the part of the Peruvian Representative, and Dr. D. José Antonio Rodrigues Parra, on the part of the Equatorian, have presented their respective full powers, and, after having exchanged them, as they were found in good and due form, proceeded to adjust the following Articles:

ART. I. The Republics of Peru and of the Equator declare that the relations of peace, friendship, harmony, and good understanding, which they ought to cultivate for their common advantage and prosperity, are fully re-established between them and their respective citizens; each of them engaging not to molest, injure, or persecute those who have in any manner taken part in the differences which are happily arranged by the present Treaty.

II. The Peruvian nation acknowledges itself satisfied for the offence offered to it by the former Equatorian Government in the person of the resident Minister of Peru, by the reinstallation of that Minister and of the Consular officials, spontaneously conceded by the present Government of the Equator.

III. The Equatorian Government disapproves and condemns, as acts unbefitting the harmony and civilization of nations, the

insults lavished on the Peruvian nation and its Government, by the official press during the time of the former Administration of the Equator, promising at the same time not to tolerate such abuse in future, as it compromises international relations; Peru, on her part, reciprocally binds herself in the same promise.

IV. The Equatorian Government, to give a proof of its justice towards Peru, solemnly engages its honour to chastise with the severity which the laws and its dignity require, the subaltern authorities who have ill-used Peruvian citizens, and against whose offences the Government of that Republic has made reclamation. Peru will do the same under similar circumstances.

V. The Government of the Equator considering the value of the documents presented by the Peruvian negotiator, amongst which the principal is the Royal Decree of the 15th July, 1802, in substantiating the rights of Peru to the territories of Quijos and Canelos, declares void, and of no effect, the adjudication which may have been made of any part of those territories to the British creditors, who must be indemnified with other lands which are the exclusive and undisputed property of the Equator.

VI. The Governments of the Equator and Peru agree to rectify the boundaries of their respective territories, and to appoint, within the term of two years, reckoned from the ratification and exchange of the present Treaty, a mixed commission, which, in conformity with the observations which it shall make, and the proofs to be exhibited by each party, shall fix the boundaries of the two Republics. In the mean time they accept for such boundaries those which arise from the *uti possidetis*, acknowledged in Article V of the Treaty of September 22, 1829,* between Columbia and Peru, and which were those of the ancient Vice-Royalties of Peru and Santa Fé, according to the Royal Decree of July 15, 1802.

VII. Notwithstanding the stipulations in the two preceding Articles, the Equator reserves the right to prove its title to the territories of Quijos and Canelos within the peremptory term of two years; after which, unless the Equatorian Government shall have presented documents capable of refuting and annulling those presented by the Plenipotentiary of Peru, the right of the Equator shall expire, and that of Peru over these territories shall be confirmed.

VIII. Both countries being desirous of burying their past differences in oblivion, and of securing between them a solid and durable peace, they engage to efface and extinguish the traces or recollections which might give an idea in future, that there was a time when brother nations shed, or were about to shed, their blood in fratricidal wars.

* Vol. XVI Page 1242.

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In the Name of God, Creator and Ruler of the Universe.

THE Republics of Peru and the Equator, animated by the American spirit, under the influence of which all the nations of this continent ought to consider themselves as belonging to one sole family; desirous of settling their past differences amicably, of re-uniting the bonds which an unjust Cabinet, the unfaithful interpreter of Equatorian feelings, managed to break; and convinced that their independence, common prosperity, and aggrandizement, require that they should enter fully into sincere relations of alliance and friendship; in fulfilment of Articles III, V, and VI of the Convention of the 4th of December, 1859, have resolved to conclude a Treaty of Peace, which shall contain the solution of the questions pending between them, and the principles on which they will fix from this time for ever their interational rights.

With this important object the Republic of Peru has fully authorized its Envoy Extraordinary and Minister Plenipotentiary, Dr. D. Manuel Morales, and that of the Equator, its Minister Plenipotentiary, Dr. D. Nicolas Estrada, who, accompanied by their respective secretaries, Dr. D. Manuel Nicholas Corpancho, Secretary of the Council of Ministers, on the part of the Peruvian Representative, and Dr. D. José Antonio Rodrigues Parra, on the part of the Equatorian, have presented their respective full powers, and, after having exchanged them, as they were found in good and due form, pro-

insults lavished on the Peruvian nation and its Government, by the official press during the time of the former Administration of the Equator, promising at the same time not to tolerate such abuse in future, as it compromises international relations; Peru, on her part, reciprocally binds herself in the same promise.

IV. The Equatorian Government, to give a proof of its justice towards Peru, solemnly engages its honour to chastise with the severity which the laws and its dignity require, the subaltern authorities who have ill-used Peruvian citizens, and against whose offences the Government of that Republic has made reclamation. Peru will do the same under similar circumstances.

V. The Government of the Equator considering the value of the documents presented by the Peruvian negotiator, amongst which the principal is the Royal Decree of the 15th July, 1802, in substantiating the rights of Peru to the territories of Quijos and Canelos, declares void, and of no effect, the adjudication which may have been made of any part of those territories to the British creditors, who must be indemnified with other lands which are the exclusive and undisputed property of the Equator.

VI. The Governments of the Equator and Peru agree to rectify the boundaries of their respective territories, and to appoint, within the term of two years, reckoned from the ratification and exchange of the present Treaty, a mixed commission, which, in conformity with the observations which it shall make, and the proofs to be exhibited by each party, shall fix the boundaries of the two Republics. In the mean time they accept for such boundaries those which arise from the *uti possidetis*, acknowledged in Article V of the Treaty of September 22, 1829,* between Columbia and Peru, and which were those of the ancient Vice-Royalties of Peru and Santa Fé, according to the Royal Decree of July 15, 1802.

VII. Notwithstanding the stipulations in the two preceding Articles, the Equator reserves the right to prove its title to the territories of Quijos and Canelos within the peremptory term of two years; after which, unless the Equatorian Government shall have presented documents capable of refuting and annulling those presented by the Plenipotentiary of Peru, the right of the Equator shall expire, and that of Peru over these territories shall be confirmed.

VIII. Both countries being desirous of burying their past differences in oblivion, and of securing between them a solid and durable peace, they engage to efface and extinguish the traces or indications which might give an idea in future, that there was a time when brother nations shed, or were about to shed, their blood in fratricidal wars.

* Vol. XVI Page 1242.

arrange for his being sent out of the country, if the circumstances require it; 2nd, The asylum may last several days, according to the judgment of the Government to which the notice is given, when it may be necessary that the refugees should make any declaration before they leave the country; 3rd, While the asylum continues, the Government may take externally all the measures which, while compatible with the immunity of the public agents, may tend to counteract the seditions attempts of the refugees.

XXII. The diplomatic reclamations of the public agents of Peru in the Equator, and of the Equator in Peru, shall not be employed to support the private affairs of the citizens of either State unless it is required by international law, by the special nature of them, or when it is shown that the justice solicited has been improperly delayed or denied; nevertheless, such good offices and recommendations as do not impair the national dignity may be admitted.

XXIII. With the important object of preventing war between Peru and the Equator, and making it more difficult and impossible, they agree that neither of the two nations shall employ its arms against the other without having previously demanded justice from the Government from which it may have received the injury or offence, and without the difference being submitted to the decision of a neutral power.

XXIV. For the protection of the interests of their commerce, both Republics agree to establish Consular Agents at such places as they may deem convenient in the territories of each other; and those Agents shall enjoy the prerogatives annexed to their appointment, and enter on the exercise of their functions as soon as they obtain the exequatur to their commission. It shall be the duty of both Governments to afford the Consuls the necessary facilities, that they may acquire and furnish such data as they may consider useful to either State.

XXV. The two High Contracting Parties, desiring to establish the principles to which, according to the spirit of the age, they ought to subject their internatonal rights in time of war, have agreed to adhere to the 4 Articles proclaimed by the Congress of Plenipotentiaries assembled in Paris in 1856, and which Peru accepted on the 5th October, 1857.* To wit: 1st, Privateering is and remains abolished; 2nd, The neutral flag covers the enemy's property, excepting contraband of war; 3rd, Neutral property, excepting contraband of war, is not subject to confiscation under an enemy's flag; 4th, Blockades, to be binding, must be effective, that is to say, they must be maintained by a sufficient force, capable of actually preventing all approach to the enemy's coast.

XXVI. To avoid doubts as to what the two Contracting Parties

* Vol. XLVIII. Page 156.

acknowledge as contraband of war it is agreed to consider as such all classes of arms offensive and defensive, instruments, ammunition of all kinds, and everything that may serve directly and exclusively for the use of those arms; horses, accoutrements, and clothing prepared and formed for military service by land or sea.

XXVII. The two Contracting Nations engage mutually to give up assassins, pirates, incendiaries, forgers of bills of exchange, documents or money, fraudulent bankrupts, and others who have committed atrocious crimes, when they are claimed by the Government of Peru from that of the Equator, with a certified copy of the definitive sentence, and by the Equator from that of Peru, with a like certified copy of the judicial decree passed against the criminal; the State to which the delivery is made paying the expenses of the imprisonment and extradition. But it shall be a condition that the penalty of death shall not be executed on such criminals if it is applied in the country which claims them, and that in case they should be under trial for an offence committed in the country of their asylum, they shall not be given up until the sentence pronounced in the new cause shall have been executed.

XXVIII. The two High Contracting Parties bind themselves not to commit any act or to make Treaties, or any kind of Convention whatever, by which the independence of South America, and particularly that of Peru, or the Equator, may be menaced; and if either of these Republics should hereafter find itself under the necessity of making territorial grants or cessions, or if any part of its territory should be exposed to be occupied or invaded by another power, Peru or the Equator respectively shall, in the first case, have the preference as next neighbours; and, in the second, the part of territory exposed shall thereby come under the protection of the Government of Peru if it should be Equatorian, and of the Government of the Equator if it should be Peruvian.

XXIX. In conformity with Article V of the Convention of December 4th, 1859, the Government of Peru acknowledges its obligation to assist that of the Equator with all the means at its disposal until public order is firmly settled, and the Republic constituted; and in return, that of the Equator promises to render the like services to the Government of Peru, in case circumstances should place it in a situation to claim them.

XXX. Any breach of this Treaty, in one or more of its Articles, that may be made by citizens of either State, shall not invalidate it; the responsibility shall fall on the Government to which they belong, if that Government refuses to chastise the transgressors, and consequently becomes implicated in the violation which has to be amended.

XXXI. By the present Treaty all others are repealed which have



III. The sovereignty resides exclusively in the nation.

IV. The territory of the Republic is comprised within the following boundaries: on the side next Nicaragua the same that were determined by the Treaty adjusted with that Republic on the 15th of April, 1858;* on the side next New Granada those of the *uti possidetis* of 1826, excepting what may be determined by ulterior Treaties with that nation; and on the other sides by the Atlantic and Pacific.

TITLE II.—*Of the Government.*

V. The Government of the Republic is popular, representative, alternative, and responsible, and is exercised by three distinct powers which are denominated Legislative, Executive, and Judicial.

TITLE III.—*Of Religion.*

VI. The religion of the Republic is the Roman Catholic Apostolic. The Government protects it, and does not contribute from its revenue to the expenses of any other form of worship.

TITLE IV.

SECTION 1.—*Of the National Guarantees.*

VII. The powers into which the Government is divided are independent of each other.

VIII. No one can arrogate to himself the sovereignty; he who does so commits treason against the nation.

IX. No authority can conclude treaties, contracts, or covenants opposed to the sovereignty and independence of the Republic; he who commits this offence is a traitor.

X. No authority can arrogate to itself the right of exercising powers which are not granted to it by the laws.

XI. Every law, decree, or order, emanating from the Legislative body, or from the Executive, is null and of no effect, if it be opposed to the Constitution. All acts of those who usurp the public functions, and all offices conferred without the requisites prescribed by the Constitution or by the laws, are equally void.

XII. The legislative power alone has the power of decreeing the alienation of property belonging to the nation.

XIII. It is reserved solely to the legislative power to decree loans or to impose taxes.

XIV. The public functionaries are not the owners but the depositaries of authority, subject to the laws, and never superior to them.

XV. All functionaries and public employés are responsible for the infraction of the Constitution or laws.

* Vol. XLVIII. Page 1049.

XVI. The act of accusing the public functionaries for infraction of the Constitution or the laws, is open to the people.

XVII. All public functionaries shall be sworn to observe the Constitution and the laws.

XVIII. The military force is strictly subordinate to the civil power, and in no case can it deliberate.

XIX. The establishment of entails is prohibited, and the Republic acknowledges no saleable or hereditary distinctive titles or offices.

XX. The punishment of infamy is not perpetual, and confiscations, corporal punishments, as well as the use of torture, are prohibited.

SECTION 2.—*Of Individual Guarantees.*

XXI. Every man is equal in the eye of the law.

XXII. The law has no retro-active effect.

XXIII. Every man in the Republic is free. He who appeals to its laws cannot be a slave.

XXIV. Every Costa Rican can remove to any part of the Republic, or to a foreign country, provided he be free from responsibility, and he may return to his country whenever he may think fit.

XXV. Property is inviolable. No one can be deprived of it, unless it be legally proved that it is for the public weal, and with previous indemnification on the valuation by professional persons, appointed by the parties, who shall not only calculate the value of the thing taken, but also the injuries that may arise therefrom.

XXVI. The dwelling of the Costa Ricans is inviolable, and no one can enter a house by force unless in the cases and with the formalities prescribed by the law.

[redacted]

according to law. The decision in regard to offences of the press belongs exclusively to a jury, in the form established by law.

XXXIII. The cognizance of civil and criminal suits is the peculiar right of the competent authorities established by the laws. No commission, judge, or tribunal shall be created for special cases, nor for any crime or reason whatever shall any one be subjected to military jurisdiction, except persons belonging to the army, who shall be tried according to ordinance solely for the crimes of sedition, rebellion, or offences against discipline committed on service, or for any others committed whilst in campaign.

XXXIV. In all the tribunals of the Republic the same mode of procedure shall be adopted, as is observed in the common jurisdictions.

XXXV. No one is compelled to declare against himself in any criminal cause, nor against his consort, ancestors or descendants, or other relations within the third degree of consanguinity, or second degree of affinity.

XXXVI. No one can be detained without proof of having committed a crime, or without a mandate from a judge or authority commissioned to preserve the public order, unless he be a declared criminal, a fugitive, or a delinquent *in flagrante;* but in every case he must be placed at the dispoal of a competent judge within the peremptory term of 24 hours.

XXXVII. The Republic acknowledges the right of *habeas corpus.* The law will determine the manner in which this right shall be put into practice.

XXXVIII. No one shall suffer any punishment without his having been heard and convicted on trial, nor without its having been imposed on him by sentence of a judge or a competent authority; excepting in cases of judicial compulsion, default, and others of this description in civil matters, and those of fine and arrest in matters of police.

XXXIX. No punishment can be inflicted on any person unless it be prescribed for the crime or fault committed, by pre-existing law.

XL. No person can be imprisoned for debt, excepting in cases of proved fraud.

XLI. The pain of death shall only be inflicted in the Republic in the following cases: 1st, for the crime of homicide, premeditated and certain, or premediated and treacherous; 2ndly, for crimes of high treason, and 3rdly, for those of piracy.

XLII. The crime of high treason shall consist solely in invading the Republic with an armed force, or espousing the cause of the enemy by affording him aid and assistance.

XLIII. Every Costa Rican or foreigner who may have recourse to

the laws is to find a remedy for the injuries or damages he may have received in his person, his property, or his honour. Ample justice is to be rendered to him, without denial, promptly and without delay, and in strict conformity with the laws.

XLIV. All Costa Ricans or foreigners residing in the Republic, have the right of terminating their differences in civil suits by means of arbitrators, either before or after commencing the law-suit.

XLV. The same judges cannot decide cases in their several instances.

XLVI. Private actions which do not interfere with public order or public morality, or which do not occasion damage, or injury to a third person, are beyond the action of the law.

Title V.

Section 1.—*Of the Costa Ricans.*

XLVII. There are Costa Ricans by birth and by naturalization.

XLVIII. The following are Costa Ricans by birth:

1. All those already born, or that may be born in the territory of the Republic, except those who, being children of a foreign father or mother, must remain in that condition according to the laws.

2. The children of a Costa Rican father or mother born beyond the territory of the Republic, and whose names are inscribed in the civic list by the wish of their parents, whilst under 21 years of age, or by their own wish when they have reached that age.

XLIX. The following are Costa Ricans by naturalization:

1. Those who, having acquired the right by previous laws, preserve it and inscribe themselves in the civic list.

2. A foreign woman married to a Costa Rican.

3. The natives of other countries who, having resided [redacted]



vided that in either case they are in possession besides of some property, or honest employment, the returns or gains of which are sufficient to maintain them in accordance with their station.

LIII. The right of citizenship becomes suspended:

1. By mental or physical incapacity which may prevent free and deliberate action.

2. By having a criminal cause undecided.

3. By vagrancy judicially declared.

4. By ingratitude towards parents, or notorious and scandalous abandonment of the duties of the head of a family.

5. By judicial interdiction.

LIV. The right of citizenship becomes lost:

1. By a sentence carried into execution inflicting corporal or degrading punishment.

2. By naturalization in a foreign country, or

3. By accepting employment from another nation without special permission from the legislative power.

LV. Those who may have forfeited their citizenship, unless it be for treason to the country, can be reinstated by legally procuring a pardon.

TITLE VI.

SECTION 1.—*Of the Suffrage.*

LVI. The suffrage has two degrees, first and second.

LVII. The right of suffrage in the first degree is inherent in all those in exercise of the right of citizenship; the right in the second degree is peculiar to the electors whom the former may nominate.

LVIII. The first exercise the right in popular assemblies; the second, in electoral assemblies.

SECTION 2.—*Of the Popular Assemblies.*

LIX. The object of these assemblies is the nomination of electors for the district, at the rate of three proprietors and one substitute for every 1,000 individuals of the population; but the district that does not contain that number shall nevertheless nominate the said 4 electors.

SECTION 3.—*Of the Electoral Assemblies.*

LX. These are composed of the electors nominated in the popular assemblies.

LXI. To be an elector the following is required:

1. To be a citizen in exercise of the civic rights.

2. To have completed 25 years of age.

3. To be able to read and write.

4. To be an inhabitant of the province to which the district nominating him belongs.

5. To possess a sum of not less than 500 dollars, or to have annual income of 200 dollars.

LXII. Neither the President of the Republic nor the bishop c be an elector.

LXIII. The duties of an elector are obligatory according t law; their duration is 3 years, and those who exercise them ma be re-elected indefinitely.

LXIV. The following are the attributions of the electora assemblies:

1. To vote for the President of the Republic.

2. To elect the senators for every province, and the represen tatives to which it is entitled at the rate of one proprietor fo every 10,000 inhabitants, or a residue of more than 5,000. Eac province shall have the right of electing a representative, althoug its population may not reach that number. They will also elect a senator substitute, and a representative substitute for every 20,00 inhabitants.

3. To elect the individuals composing the municipalities that may be established, and to make the other elections that the law require of them.

LXV. An especial law will adjust upon these bases the qualifi cations of the citizens and the manner of the elections, as may best conduce to the legality, liberty, and order of the suffrage in both its degrees.

TITLE VII.—*Of the Legislative Powers.*

SECTION 1.—*Of the Congress.*

LXVI. The Congress, composed of two Chambers, one of senators and one of representatives, shall exercise the legislative power.



votes for President of the Republic, and to declare his election when there is an absolute majority, and when there is not, to elect one of the two individuals who may have obtained the greatest number of votes; moreover in case two or more should have an equal number, the Congress shall elect which of them is to be President of the Republic.

3. To appoint the magistrates of the Supreme Court of Justice and the co-judges mentioned in Article CXXXII, section 2, title IX, of this Constitution; to receive the constitutional oath from them and from the President of the Republic, to accept or not the resignations of all the individuals of the supreme powers; to decide the doubts that may arise in case of the physical or moral incapacity of the President of the Republic, and to declare whether a new election ought to be made or not.

4. To approve or reject Treaties, Concordats, and any Conventions arising from foreign relations.

5. To give or deny their consent for the entry of foreign troops into the Republic, and for foreign squadrons being stationed in its ports.

6. To authorize the Executive Power to declare war.

7. To suspend, by the votes of three-fourths of those present, the constitutional arrangements in the sole and exclusive case of the Republic being in manifest and imminent danger, and of this being the indispensable means for its salvation; but the suspension and effects of the measures that may have been taken in virtue thereof must cease, so soon as the said danger shall have disappeared.

8. To nominate at each ordinary meeting two individuals from the members of both Chambers, or elsewhere, with the classification of first and second, for the exercise of the Executive Power during the temporary or absolute inabilityof the President of the Republic; both such persons to possess the requisite qualifications.

9. To receive the accusations that may be brought against the President of the Republic, the individuals of the Supreme Powers, the Secretaries of State, and Diplomatic Ministers of the Republic, and to declare, by two-thirds of the votes, if there be, or if there be not reason to institute proceedings against them; and if the decision be in the affirmative, to place them at the disposal of the Supreme Court of Justice, in order that they may be judged according to law.

SECTION 2.—*Of the Chamber of Senators.*

LXX. The Senate shall be composed of two Senators elected for each province.

LXXI. To be a Senator the following is required:

1. To be a Costa Rican by birth.

2. To be 40 years of age.

3. To be a layman; and

4. To possess all the qualifications necessary for being an elector except the 4th, and furthermore to possess a capital of not less than 4,000 dollars of his own.

LXXII. The duration of the office of Senator shall be 4 years, they must be renewed, by halves, every two years, and they can be re-elected indefinitely. At the first period of their renovation it shall be decided by lot who are to vacate their seats.

SECTION 3.—*Of the Chamber of Representatives.*

LXXIII. The Chamber of Representatives shall be composed of the deputies elected by the provinces.

LXXIV. To be a representative, the following is required:

1. To be a Costa Rican by birth; and

2. To possess all the qualifications required to be an elector.

LXXV. The duration of the representatives is the same as that of the senators, and they must be renewed and can be re-elected in the same way.

SECTION 4.—*Arrangements common to both Chambers.*

LXXVI. The following cannot be elected as Representatives or Senators:

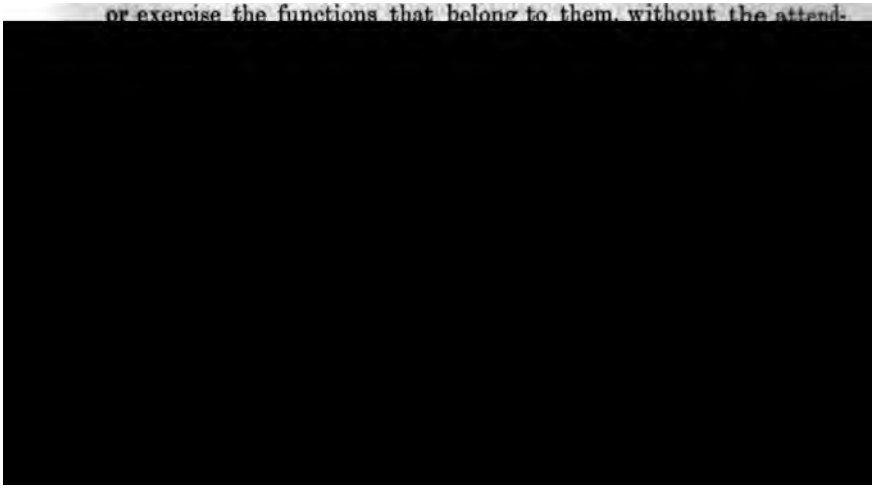
1. The President of the Republic and the Secretaries of State.

2. The magistrates of the Supreme Court of Justice.

3. Those who exercise a jurisdiction or authority over the whole of a province.

LXXVII. The position of a representative is incompatible with that of a subaltern employment under the other Supreme Powers.

LXXVIII. Neither of the Chambers can open their sessions, or exercise the functions that belong to them, without the attend-



town, or suspend their sessions for a determined period, the mutual consent of both is required.

LXXXII. The sessions of both Chambers shall be public, excepting in case of either of them having a reason to transact some business at a secret sitting.

LXXXIII. Each of the Chambers has the right to adopt for itself the regulations necessary for the direction and arrangement of its business, and for everything relative to its internal regulation and government.

LXXXIV. According to those regulations they can visit the members, when they break them, with the correctional penalties therein established.

LXXXV. It belongs to each Chamber to verify the rights of its respective members, and to decide upon objections against the validity of their elections.

LXXXVI. The vacancies in the Chambers shall be filled by the respective substitutes, and if the number of these should not be sufficient for that purpose, others shall be nominated, whose term of service shall only last until the next renewal of the respective Chamber.

LXXXVII. The senators and representatives are such for the nation, and not for the province that has nominated them; they shall receive no orders nor instructions, either from the assemblies which nominate them, or from any other authority.

LXXXVIII. The senators and representatives are not responsible at any time or before any authority for the opinions which they express, and the votes which they give in exercise of their functions, unless it be in the case of express violation of the Constitution.

LXXXIX. The senators and representatives, while the sessions continue, shall not be sued nor be liable to executory process in civil actions, neither shall they be detained for any criminal cause, without their having been previously suspended by the Congress, and placed at the disposal of the proper judge or tribunal; unless they may have been discovered in the actual commission of a crime which may deserve corporal or disgraceful punishment, or if before the said time they may have been sentenced or subjected to imprisonment.

SECTION 5.—*Attributions of the Congress.*

XC. The following are the exclusive attributions of the Congress:

1. To pass the laws, to interpret, and to reform them.

2. To establish the taxes and national contributions.

3. To decree the alienation of property belonging to the nation, or its application to public uses.

4. To give the Executive Power special authority to negotiate loans, or to make contracts, for which the national revenues may be pledged as a security.

5. To examine, at every ordinary meeting, the accounts for the previous financial year which the Executive Power will present, both of the returns of the revenues and the produce of the national property, and of the expenses of the Public Treasury.

6. To decree, at every annual meeting, the estimates of the ordinary expenses for the following year; and at the same meeting, or at the extraordinary ones, such extraordinary expenses as it may be necessary to incur.

7. Also to fix annually the maximum of the armed force by sea and land, which the Executive may maintain in active service, and then, or at the extraordinary sessions, to fix the increase that may be made in the said force, in case of foreign war, or armed insurrection.

8. To confer military rank, from that of lieutenant-colonel upwards.

9. To grant personal and honorary rewards to those who may have rendered great and important services to the Republic, and to decree honours to their memory.

10. To fix the alloy, form, pattern, and denomination of the coin, and of the weights, and measures, that shall be legally used.

11. To promote, by all possible means, the progress of science and the useful arts, and to secure for a limited time to authors and inventors, the exclusive right to their respective writings or discoveries.

12. To create establishments of all kinds for the teaching and progress of arts and sciences, assinging revenues for their expenses, and especially to protect and promote primary instruction.

13. To institute the tribunals and courts of justice, and all other offices necessary for the national service.

Section 6.—*Of Framing the Laws.*

XCI. The laws and other legislative acts may take their origin in either of the two Chambers of Congress, on the proposition of their respective members, or of the Secretaries of State.

XCII. No project of law can be passed by the Chamber in which it originates, without having undergone three discussions, each on a different day.

XCIII. The projects that are passed by the Chamber in which they originate will proceed to the other Chamber, expressing the days on which they have undergone discussion, and the conditions established by the foregoing Article must be observed for their approbation by the second Chamber.

XCIV. The Chambers have the reciprocal right of proposing the

alterations and variations that they may think fit, in the projects passed from one to another, until they agree on the terms in which they shall be definitely drawn up to be presented for the sanction of the Executive.

XCV. No project of law, although passed by both Chambers, shall have the force of a law, without the sanction of the Executive. If he think fit to give it his sanction, he will order that it be executed and published; but if he refuse his sanction, he will reject the project and return it to the Chamber of its origin with his objections to it.

XCVI. The Executive Power may reject any project of law, either because he considers it altogether unfitting, or because he thinks it requires alterations or reforms, and in this case he will state the alterations which ought to be made.

XCVII. When the project has been reconsidered in consequence by both Chambers, with the observations made by the Executive, and if, notwithstanding these, it should be approved of by two-thirds of the votes, it will be sanctioned, and will be ordered for fulfilment as a law of the Republic; but if it should not be approved it cannot be considered again until the next ordinary session.

XCVIII. In order that a project of law may be considered as rejected by the Executive Power, it is indispensable that it be punctually returned to the Chambers within the term of 10 days. If this be not done it shall be considered as a law of the Republic.

XCIX. The sanction of the Executive Power is necessary to all the acts and resolutions of the Legislative Power, excepting the following:

1. Such as relate to the elections which it has to make, and the resignations or excuses which it has to hear.

2. The resolutions of the two Chambers to remove their sittings to another town, or to suspend their sessions, or to prorogue the ordinary meetings for the whole of the period permitted by the Constitution.

3. The regulations made by the Chambers for their internal government.

C. The Congress will commence all the laws and legislative acts, with the formula, "The Senate and Chamber of Representatives of Costa Rica assembled in Congress, &c."

TITLE VIII.—*Of the Executive Power.*

SECTION 1.—*Of the President of the Republic.*

CI. There shall be in Costa Rica a President, who shall be the Chief of the Nation.

CII. To be President of the Republic the following is required:

1. To be a Costa Rican by birth;
2. To be a layman;
3. To be a citizen in exercise of the civic rights;
4. To have completed 30 years of age; and
5. To be the owner of a capital of not less than 10,000 dollars in known property.

CIII. The President of the Republic will continue to fill that post for 8 years, and cannot be re-elected until a constitutional period shall have elapsed after his retirement from power. Neither can any of his relations within the third degree of consanguinity, or second degree of affinity, be elected immediately after him.

CIV. The allowance of the President of the Republic, cannot be increased or diminished during the period for which he is elected, nor can he receive during that period any other salary or emolument.

CV. The constitutional period of the President of the Republic shall begin to be reckoned from the 8th day of May, on which he must take possession of his office, and so soon as the said period is concluded, he stops the exercise of his functions from that fact alone.

CVI. If he who has been elected President of the Republic shall not be able to take the Constitutional oath before the Congress on the day fixed in the preceding Article, or during the ordinary sessions, he shall do so before the person entrusted with the Executive Power, with all due solemnities.

CVII. When, owing to his decease, resignation, or any other cause, the office of President of the Republic is left vacant, there shall be an extraordinary election, provided that more than a year be wanting to complete the constitutional period.

SECTION 2.—*Of those on whom the Executive Power devolves.*

CVIII. The exercise of the Executive Power belongs to the President as Chief of the Nation.

CIX. The President of the Republic cannot leave the territory of Costa Rica during the term he is in office, nor in less than a year after his having retired from office, unless with the permission of the Congress.

SECTION 3.—*Of the Attributions of the Executive Power.*

CX. The following are the attributions of the Executive Power:

1. To appoint and remove freely the Secretaries of State, and all the other officials dependent upon him.
2. To maintain order and tranquillity in the Republic, and to repel every external attack or aggression.
3. To fulfil and execute, and to cause to be fulfilled and executed,

by his agents and subordinates, the Constitution and laws in so far as belongs to him.

4. To take care that the other public officials who are not subject to his orders fulfil and execute them, applying for that purpose to their immediate superiors.

5. To dispose of the armed force by sea and land for the defence and security of the Republic, for the maintenance of order and tranquillity therein, and for all other objects of the public service; but in no case can the President of the Republic whilst holding his office, nor any one while entrusted with the Executive Power, command that force in person.

6. To dispose of the public means according to the laws.

7. To convoke the Congress for its ordinary meetings, and extraordinarily whenever any serious occasion of public necessity requires it.

8. To direct diplomatic affairs, conclude Treaties or public Conventions with other Governments or nations, and exchange the ratifications thereof, after they have been approved and ratified by Congress.

9. To appoint, with the consent of the State Council, the Ministers Plenipotentiary, Envoys Extraordinary, and Consuls of the Republic.

10. To receive the foreign Diplomatic Ministers and to admit the Consuls of other nations.

11. To exercise the rights of patronage according to the laws, to make the presentations and appointments which they assign to him, and to perform all other acts which they require of him in the affairs of the Church.

12. To grant or deny admission to the decrees of Councils, bulls, Pontifical briefs and rescripts, and any others issued by the ecclesiastical authority.

13. To declare war against any other power or nation, when authorized to do so by the Legislative Power, and to make peace when it may be deemed fit.

14. To issue the respective commissions to the individuals whom the Congress may have invested with the military rank which it has a right to confer.

15. To confer military rank up to that of captain inclusive, and to fill up any other places which the law does not reserve to nother authority.

16. To grant leave of retirement to the generals, chiefs and ficers of the army, and to accept or decline the resignations which ey tender of their appointments.

17. To grant letters of naturalization according to law.

18. To commute, with the consent of the State Council, and in ses provided by the laws, the punishment of death for the next

degree, and the punishments of imprisonment and labour on the public works for some other corporal punishment, first consulting the Supreme Court of Justice in every case of commutation.

19. To grant amnesties and pardons for public offences, both general and particular.

20. To issue commisssions for navigation and letters of marque.

21. To render an account in writing to the Congress on the opening of its sessions, of the political state of the Republic, and of the state of the different branches of the administration under his charge, indicating the measures which he thinks fitting for their improvement.

22. To declare when minors come of age according to the law, in order that they may manage their own affairs.

23 To restore according to law the right of citizenship to those who may have forfeited it, or have had its exercise suspended.

24. To supply the consent to contract matrimony to those who may require it by law, excepting that of father or mother.

25. To establish the regulations that may be required for the interior arrangement of his offices, and to issue the necessary regulations and orders for the exact execution of the laws.

Section 4.—*Of the Responsibility of those who exercise the Executive Power.*

CXI. He who exercises the executive power is responsible for the abuses which he may commit in his official proceedings:

1. When they may be to favour the interest of a foreign nation against the independence, integrity, and liberty of Costa Rica.

2. When they may tend to hinder directly or indirectly the elections provided for in this Constitution, or to limit the electoral



the Secretary who may have authorized the act, shall be made responsible, or he who may have been guilty of the omission.

CXII. The President of the Republic, whilst in office or in charge of the Executive Power, cannot be prosecuted or tried for common offences, unless after the accusation has been made the Congress should declare that there is reason to institute proceedings.

SECTION 5.—*Of the Secretaries of State.*

CXIII. There shall be offices of State as determined by law for the transaction of all the business which, according to this Constitution or the laws, belongs to the Executive Power.

CXIV. Each of these offices shall be under the charge of a Secretary of State, but the Executive may entrust two or more of them to one Secretary only.

CXV. To be a Secretary of State the following is required:

1. To be a Costa Rican by birth.
2. To be a citizen, in exercise of the rights as such.
3. To be a layman.
4. To be 25 years of age, and of known intelligence,
5. To possess a capital of not less than 2,000 dollars.

CXVI. The minutes, orders, and resolutions of the President of the Republic shall be signed by each Secretary of State in his respective department, without which they shall neither have validity nor be obeyed.

CXVII. All acts, resolutions, orders, and any other proceedings communicated by the Secretaries of State, without having been subscribed by the President of the Republic in the proper book, are null and of no effect; and the said functionaries will be responsible for their results, and be liable moreover to the penalties established by the laws for the offence of falsification.

CXVIII. The Secretaries of State shall present to the Congress every year, within the first ten days of the ordinary sessions, reports upon the state of their respective departments, and at any time such projects of law as they may think expedient, and the statements that may be required of them. The Minister of Finance will accompany his report with an account of the expenses of the preceding year, and the estimate for those of the ensuing year.

CXIX. The Secretaries of State may be present at the debates of Congress, and of either of the Chambers, and take part in them, but they must retire before questions are put to the vote.

SECTION 6.—*Of the Council of State.*

CXX. The President of the Republic shall have a Privy Council composed of the Secretaries of State, to discuss and deliberate on the affairs that the President may submit to them. The determi-

nation of the majority shall be drawn up in writing, and presented to the President of the Republic.

CXXI. Should the urgency of an affair require it, the State Council can be increased by two or more persons that the Executive may summon for that propose.

Title IX.

Section 1.—*Of the Judicial Power.*

CXXII. The Judicial Power of the Republic is exercised exclusively by the Supreme Court of Justice and the other tribunals and courts established by law.

CXXIII. No power or authority can remove, unless it be *ad efectum videndi*, and in cases authorized by law, causes pending in another tribunal or court, nor abridge them, nor can suits already concluded be revived.

CXXIV. The functionaries who administer justice cannot be suspended from their offices unless there is a previous declaration that there is reason to institute proceedings against them, nor can they be deprived of their places, unless by executory sentence.

CXXV. All the judges and tribunals of justice established in the Republic by law, under whatsoever denomination, are dependent on the Supreme Court.

CXXVI. It belongs to the Supreme Court of Justice to appoint the judges of first instance and the other functionaries designated by the law; to take cognizance of their resignations, and to grant them leave when they may solicit it.

CXXVII. The law will designate the jurisdiction, the number and duration of the tribunals that are to be established in the Republic, their attributions, the principles which are to guide them in their proceedings, and the manner of exacting responsibility from



2. To be a layman.

3. To be 30 years of age.

4. To be an advocate, authorized to practise, or acknowledged by the court.

5. To possess a sum of his own amounting to 3,000 dollars, or, in default thereof to give security to that amount.

6. Not to be related to other magistrates within the third degree of consanguinity or second of affinity.

CXXXI. All the advocates of the age of 25 years who possess all the other qualifications mentioned in the previous Article, are by position co-judges of the Supreme Court, called by lot to fill the vacancies of the magistrates according to the law.

CXXXII. In cases where the number of qualified co-judges is deficient, the Congress will elect at the time of appointing the magistrates 6 co-judges who, instead of possessing the fourth qualification, are learned in the law. All the co-judges will take the legal oath before the Supreme Court of Justice.

CXXXIII. The organization of the Supreme Court and the responsibility of the persons who compose it are subjects of the law.

Title X.—*Of the Municipal Regimen.*

CXXXIV. The territory of the Republic will continue to be divided into provinces for the purposes of the general administration of national affairs, the provinces into cantons, and these last into districts. These divisions may be altered for fiscal, political, or judicial objects, by the general laws of the Republic, and for the purposes of municipal administration by the orders of the municipalities.

CXXXV. There shall be a municipality in the capital of each province, to which shall belong the administration, care, and encouragement of the interests and establishments of the province, the formation and preservation of the civic register, and the census of the population, and the exclusive administration and application of the municipal funds, all in conformity with the respective organic regulations.

CXXXVI. There shall be in each province a governor as agent of the Executive Power and appointed thereby, with the qualifications and attributions assigned to him by law.

Title XI.—*Of the Observance of the Constitution, of the Oath, and of Reforms.*

Section 1.—*Of the Observance of the Constitution.*

CXXXVII. The Legislative Power immediately after the opening of its sessions shall examine whether the Constitution has been exactly observed, and whether infractions of it have been amended,

taking proper measures for making the offenders effectively responsible.

SECTION 2.—*Of the Constitutional Oath.*

CXXXVIII. The oath that must be taken by the public functionaries, according to the provision in Article XVII, section 1, title 4, of this Constitution shall be in the following form.

"Do you swear, by God and his Holy Evangelists, to observe and defend the Constitution and laws of the Republic, and to fulfil faithfully and properly the duties of your office? Yes, I swear. If thus you perform your oath, may God help you; and if not, may He and the country make you responsible for it."

SECTION 3.—*Of Reforms in the Constitution.*

CXXXIX. The present Constitution can not be reformed, nor can any Article therein be altered or receive any addition until after 4 years reckoned from the day of its publication.

CXL. The reformation of one or more Articles of the Constitution can be made by the Legislative Power after the period fixed in the foregoing Article, subject absolutely to the following dispositions:

1. The proposition asking for the reformation of one or more Articles can be presented in either of the two Chambers, signed by at least one-third of the members present.

2. This proposition shall be read three times, with an interval of 6 days between each reading, and when the last reading has taken place, it shall be deliberated whether or not it be submitted to discussion.

3. In case the decision be in the affirmative, it shall be passed to a committee nominated by a majority of the Chamber, so that within the term of 8 days, its opinion may be given.

4. On this being presented, it shall be submitted to discussion, with observation of the established proceedings for framing the laws; but to sanction the reform it is necessary that it should be passed by two-thirds of the votes in each of the Chambers.

5. When the necessity for reform has been agreed upon, the two Chambers shall assemble in Congress for the formation of the required project, the absolute majority being sufficient for this.

6. The said project shall be submitted to the Executive Power, who, after hearing the Council of State, shall present it with his message to Congress at the next ordinary meeting.

7. The Congress at its first sitting shall discuss the project, and whatever may be determined by two-thirds of the votes shall be esteemed a Constitutional Article, and be communicated to the Executive Power for publication and observance.

CXLI. The general reform of this Constitution, when once the project thereof has been decided in the manner stated in the foregoing Article can only be effected by a Constituent Assembly convoked for the purpose.

CXLII. All previous Constitutions are hereby abrogated, and no other shall be in force from the day of the publication of this one.

Given in the city of San José, the 26th of December, 1859, and 38th year of the Independence.

(Here follow the signatures of the Deputies for the Provinces.)

TREATY between Denmark and Spain, relative to the Redemption of the Sound Dues.—Madrid, February 25, 1860.*

[Ratifications exchanged at Madrid, May 11, 1860.]

Sa Majesté le Roi de Danemark et Sa Majesté la Reine des Espagnes voulant régler définitivement le traitement fiscal et Douanier des navires Espagnols dans le Sund et les Belts en assurant à ces navires formellement et pour toujours le libre passage par les dits détroits, ont résolu de négocier dans ce but un Traité spécial et ont, à cet effet, muni de leurs pleins pouvoirs, savoir;

Sa Majesté le Roi de Danemark le Comte Léon de Moltke-Hvitfeldt, Chevalier de son Ordre du Danebrog, Commandeur de l'Ordre de la Tour et de l'Epée du Portugal, Officier de l'Ordre de Léopold de Belgique, son Chambellan et son Envoyé Extraordinaire et Ministre Plénipotentiaire, nommé, près Sa Majesté l'Empereur des Français, &c.

Sa Majesté la Reine des Espagnes Don Saturnino Calderon Collantes, Grand-Croix de l'Ordre Royal et distingué de Charles III, Grand-Croix de l'Ordre Royal d'Isabelle la Catholique, Grand-Croix de l'Ordre de Pie IX des Etats Pontificaux, Grand-Cordon de l'Ordre de Léopold de Belgique, Grand-Croix de l'Ordre de Louis de la Hesse-Darmstadt, Sénateur, son Premier Sécretaire d'Etat et Président *ad interim* du Conseil de Ministres, &c.

Lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivans:

Art. I. Sa Majesté le Roi de Danemark prend envers Sa Majesté Catholique, qui l'accepte, l'engagement;

1. De ne prélever aucun droit de douane, de tonnage, de feu,

* Signed also in the Danish language.

de phare, de balisage ou autre charge quelconque, à raison de la coque ou des cargaisons, sur les navires Espagnols qui se rendront de la Mer du Nord dans la Baltique ou *vice versâ*, en passant par les Belts ou le Sund, soit qu'ils se bornent à traverser les eaux Danoises, soit que des circonstances de mer quelconques ou des opérations commerciales les obligent à y mouiller ou relâcher. Aucun navire Espagnol ne pourra désormais, sous quelque prétexte que ce soit, être assujeti, au passage du Sund ou des Belts, à une détention ou entrave quelconque;

2. De ne prélever sur aucun de ces mêmes navires qui entreront dans les ports Danois ou qui en sortiront, soit avec chargement soit sur lest, qu'ils y aient ou non accompli des opérations de commerce, non plus que sur leurs cargaisons, aucune taxe quelconque dont ces navires ou leurs cargaisons auraient été passibles à raison du passage par le Sund et les Belts, et dont la suppression est stipulée par le précédent paragraphe; et il est bien entendu que les taxes qui seront ainsi abolies et qui ne pourront par conséquent être perçues, soit dans le Sund ou les Belts, soit dans les ports Danois, ne pourront non plus être rétablies indirectement par une augmentation dans ce but des taxes de port ou de douane actuellement existant, ou par l'introduction dans le même but de nouvelles taxes de navigation ou de douane, ni de toute autre manière quelconque.

II. Sa Majesté le Roi de Danemark s'engage, en outre, envers Sa Majesté Catholique:

1. A conserver et maintenir dans le meilleur état d'entretien tous les feux et phares, actuellement existants, soit à l'entrée ou aux approches de ses ports, havres, rades et rivières ou canaux, soit le long de ses côtes, ainsi que les bouées, balises et amers actuellement existants et servant à faciliter la navigation dans le Kattegat, le Sund et les Belts;

[redacted]

librement et aux mêmes conditions, qu'elle qu'en soit la nationalité dans le Sund et les Belts, des bateaux servant exclusivement à la remorque des navires qui voudront en faire usage;

5. En cas d'abaissement des taxes de transit prélevées actuellement dans la Monarchie Danoise au dessous du taux uniforme et proportionnel au poids de 16 skilling Danois par 500 livres Danoises, fixé par la loi du 6 Mai, 1857, Sa Majesté le Roi de Danemark s'engage à placer toutes les routes ou canaux qui unissent ou uniront la mer du Nord et l'Elbe à la Baltique ou à ses tributaires, sur un pied de parfaite égalité avec les routes les plus favorisées qui existent actuellement ou qui viendraient à être établies sur son territoire.

Il est bien entendu que si l'exemption de taxes de transit dont jouissent en ce moment les marchandises désignées dans la loi précitée du 6 Mai, 1857, venait ultérieurement, sur une route quelconque, à être étendue à d'autres produits, cette même franchise serait appliquée, de plein droit, à toutes les routes ci-dessus spécifiées.

6. Sa Majesté le Roi de Danemark s'étant entendu définitivement avec Sa Majesté le Roi de Suède et de Norvège dans le but d'assurer pour l'avenir, comme par le passé, le maintien et l'entretien des fanaux sur les côtes de Suède et de Norvège, servant à éclairer et à faciliter le passage du Sund et l'entrée du Kattegat, il est convenu qu'il ne résultera du maintien et de l'entretien de ces fanaux aucune charge pour les navires Espagnols passant par le Sund et le Kattegat.

III. Dans le cas où Sa Majesté le Roi de Danemark accorderait à une puissance quelconque, par rapport aux voies de communication entre la mer du Nord ou l'Elbe et la Baltique, des faveurs ou avantages supérieurs à ceux stipulés à cet égard dans l'Article précédent, Sa dite Majesté s'engage à étendre immédiatement ces concessions à titre gratuit, ou moyennant une compensation équivalente, si elle a été faite conditionnellement.

IV. Comme dédommagement et compensation des sacrifices imposés à Sa Majesté le Roi de Danemark par les stipulations ci-dessus, Sa Majesté Catholique s'engage à payer à Sa Majesté Danoise pour les provinces de l'Espagne en Europe la somme de 368,573 rigsdalers, monnaie Danoise, et pour les provinces Espagnoles d'outremer, nommément les îles de Cuba et de Puerto-Rico, la somme de 651,443 rigsdalers de la même monnaie.

V. Comme paiement définitif et intégral de la somme de 368,573 rigsdalers, monnaie Danoise, mentionnée à l'Article précédent, ainsique des intérêts de cette somme à dater du 1 Avril, 1857, jusqu'au jour du paiement, Sa Majesté Danoise accepte la somme de 4,000,000 de réaux de vellon. Cette somme sera soldée à Madrid

en numéraire le 1 Avril, 1862, à la personne dûment autorisée par le Ministre des Finances de Sa Majesté le Roi de Danemark à la recevoir.

VI. Les deux Hautes Parties Contractantes se réservent de régler par un arrangement ultérieur le mode de paiement de la somme de 651,443 rigsdalers mentionnée à l'Article IV du présent Traité.

VII. Le présent Traité sera ratifié et les ratifications en seront échangées à Madrid dans le terme de deux mois, ou plus tôt, si faire se peut.

En foi de quoi les Plénipotentiaires respectifs l'ont signé et y ont apposé le cachet de leurs armes.

Fait à Madrid, le 25 Février, 1860.

(L.S.) SATURNINO CALDERON COLLANTES.
(L.S.) L. MOLTKE-HVITFELDT.

TREATY between Denmark and Spain, relative to the Redemption of the Sound Dues and the Spanish Debt, contracted under the Convention of August 14, 1814.*—*Signed at Madrid, February* 25, 1860.

[Ratifications exchanged at Madrid, May 11, 1860.]

Sa Majesté le Roi de Danemark et Sa Majesté la Reine des Espagnes s'étant réservés par l'Article VI du Traité spécial signé aujourd'hui sur le rachat des péages du Sund de régler par un arrangement ultérieur le mode de paiement des 651,443 rigsdalers, monnaie Danoise, que Sa Majesté Catholique s'est engagée par l'Article IV du même Traité à payer à Sa Majesté Danoise pour les provinces Espagnoles d'outremer en considération de l'abolition complète des susdits péages, et voulant, en arrêtant les conditions de cet arrangement, prendre également des dispositions définitives relativement aux anciennes dettes contractées par la Couronne d'Espagne envers celle de Danemark et mentionnées à l'Article IV du Traité de Paix signé à Londres le 14 Août, 1814, ont résolu de conclure, dans les buts indiqués, un Traité Spécial et ont nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté le Roi de Danemark le Comte Léon de Moltke-Hvitfeldt, Chevalier de Son Ordre du Danebrog, Commandeur de l'Ordre de la Tour et de l'Epée du Portugal, Officier de l'Ordre de Léopold de Belgique, Son Chambellan et Son Envoyé Extraordinaire

* Vol. I. Page 246.

et Ministre Plénipotentiaire, nommé, près Sa Majesté l'Empereur des Français, &c.

Sa Majesté la Reine des Espagnes Don Saturnino Calderon Collantes, Grand-Croix de l'Ordre Royal et destingué de Charles III, Grand-Croix de l'Ordre Royal d'Isabelle la Catholique, Grand-Croix de l'Ordre de Pie IX, des Etats Pontificaux, Grand-Cordon de l'Ordre de Léopold de Belgique, Grand-Croix de l'Ordre de Louis de la Hesse-Darmstadt, Sénateur, Son Premier Sécretaire d'Etat et Président *ad interim* du Conseil des Ministres, &c.

Lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des Articles suivants:

ART. I. Sa Majesté la Reine d'Espagne fera payer à Sa Majesté le Roi de Danemark, en considération du libre passage par le Sund et les Belts accordé aux navires Espagnols ainsi qu'aux cargaisons Espagnoles provenant des, ou destinées pour les provinces Espagnoles d'Outremer, nommément les îsles de Cuba et Puerto-Rico, la somme de 651,443 rigsdalers, monnaie Danoise.

II. Cette somme de 651,443 rigsdalers sera assimilée aux dettes contractées antérieurement par la Couronne d'Espagne envers celle de Danemark et mentionnées dans le Traité de Paix du 14 Août, 1814. Elle sera en conséquence acquittée de la même manière et aux mêmes conditions que ces dernières dettes.

III. Sa Majesté Danoise accepte la somme de 13,000,000 de réaux comme paiement intégral et définitif de la somme spécifiée à l'Article I du présent Traité ainsique des susdites dettes.

En paiement de cette somme Sa Majesté Catholique fera remettre à Madrid dans le terme de deux mois après l'échange des ratifications du présent Traité à la personne dûment autorisée à cet effet par le Ministre des finances de Sa Majesté le Roi de Danemark 13,000,000 de réaux en titres transmissibles de la dette Espagnole intérieure du 3 pour cent consolidé. Les coupons des dits titres commenceront à échoir le 1 Janvier, 1870, et donneront à partir du dit jour le droit à la perception sémestrielle de la dite rente perpétuelle.

IV. Le présent Traité sera ratifié et les ratifications en seront échangées à Madrid dans l'espace de deux mois, ou plus tôt, si faire se peut.

En foi de quoi les Plénipotentiaires respectifs l'ont signé et y ont apposé le cachet de leurs armes.

Fait à Madrid le 25 Février, 1860.

(L.S.) SATURNINO CALDERON COLLANTES.
(L.S.) L. MOLTKE-HVITFELDT.

TREATY between The Netherlands and Portugal, regulating the Limits of the Netherlands and Portuguese Possessions in the Archipelago of Timor and Solor.—Signed at Lisbon, April 28, 1859.

[Ratifications échangées à Lisbonne, le 21 Août, 1860.]

Sa Majesté le Roi des Pays-Bas et Sa Majesté le Roi de Portugal et des Algarves, ayant jugé utile de mettre fin aux incertitudes existantes relativement aux limites des possessions Néerlandaises et Portugaises dans l'Archipel de Timor et Solor, et voulant prévenir à jamais tout malentendu, que pourraient provoquer des limites mal définies et des enclaves trop multipliées, ont muni afin de s'entendre à cet égard, de leurs pleins-pouvoirs, savoir :

Sa Majesté le Roi des Pays-Bas, le Sieur Maurice Jean Louis Jacques Henri Antoine Heldewier, Chevalier de l'Ordre de la Couronne de Chêne et de la Légion d'Honneur, Chargé d'Affaires des Pays-Bas près le Gouvernement de Sa Majesté Très-Fidèle; et

Sa Majesté le Roi de Portugal et des Algarves, le Sieur Antonio Maria de Eontes Pereira de Mello, Chevalier de l'Ancien et Très Noble Ordre de la Tour et de l'Epée, de la Valeur, de la Loyauté et du Mérite, de Saint Benoit d'Avis, d'Isabella la Catholique, Grand-Croix de l'Ordre de Léopold de Belgique et de l'Ordre de Charles III d'Espagne, du Conseil de Sa Majesté Très-Fidèle, Membre du Conseil d'Outre-Mer, Capitaine du Génie et Ministre et Secrétaire d'Etat de l'Intérieur, &c.

Lesquels, après s'être communiqués les dits pleins-pouvoirs, trouvés en bonne et dûe forme, sont convenus de conclure un Traité de démarcation et d'échange, contenant les Articles, sui-

Naitimu (Nartimu),	Lanken,
Manden,	Dacolo,
Dirma,	Tamiru Eulalang (Eulaleng),
Lakecune.	Suai.

II. La Néerlande reconnaît la souveraineté de Portugal sur tous les Etats qui se trouvent à l'est des limites ainsi circonscrites, à l'exception de l'Etat Néerlandais de Maucatar ou Calunienène (Colunienène), qui se trouve enclavé dans les Etats Portugais de Lamakitu, de Tanterine, de Follafaix (Follefait) et du Suai.

Le Portugal reconnaît la souveraineté de la Néerlande sur tous les Etats qui se trouvent à l'ouest de ces limites, à l'exception de l'enclave d'Oikoussi, qui demeure Portugaise.

III. L'enclave d'Oikoussi comprend l'Etat d'Ambenu partout où y est arboré le pavillon Portugais, l'Etat d'Oikoussi proprement dit, et celui de Noimuti.

Les limites de cette enclave sont les frontières entre Ambenu et Amfoang à l'ouest, d'Insana et Reboki (Beboki), y compris Cicale à l'est, et Sonnebait, y compris Amakono et Tunebaba (Timebaba) au sud.

IV. Sur l'île de Timor le Portugal reconnaît donc la souveraineté de la Néerlande sur les Etats d'Amarassi, de Bibico (Traijnico, Waijniko), de Buboque (Reboki), de Derima (Dirma), de Fialara (Fialarang,), de Lamakanée, de Nira (Lidak), de Juanilo, de Mena et de Fulgarite ou Foulgarita (dépendances de l'Etat de Harnenno).

V. La Néerlande cède au Portugal le Royaume de Moubara (Maubara) et cette partie d'Ambenu ou d'Ambeno (Sutrana) qui, depuis plusieurs années, a arboré le pavillon Portugais.

Immédiatement après que l'échange des ratifications de ce Traité par leurs Majestés le Roi des Pays-Bas et le Roi de Portugal aura eu lieu, le Gouvernement des Pays-Bas donnera l'ordre à l'autorité supérieure des Indes Néerlandaises de remettre le royaume de Moubara (Maubara) à l'autorité supérieure Portugaise de Timor Dilly.

VI. La Néerlande se désiste de toute prétention sur l'île de Kambing (Pulo Kambing), au nord de Dilly, et reconnaît la souveraineté du Portugal sur cette île.

VII. Le Portugal cède à la Néerlande les possessions suivantes :

Sur l'Ile Flores, les Etats de Larantuca, Sicca et Paga, avec leurs dépendances :

Sur l'Ile d'Adenara, l'Etat de Wouré ;

Sur l'Ile de Solor, l'Etat de Pamangkaju.

Le Portugal se désiste de toutes les prétentions que, peut-être, il aurait pu faire valoir sur d'autres Etats ou endroits situés sur les îles ci-dessus nommées, ou sur celles de Lomblen, de Pantar

et d'Ombaij, que ces Etats portent le pavillon Néerlandais Portugais.

VIII. En vertu des dispositions de l'Article précédent, la Né lande obtient la possession entière et non-partagée de toutes les î situées au nord de Timor, savoir: celle de Flores, d'Adenara, Solor, de Lomblen, de Pantar (Quantar), et d'Ombaij, avec les peti îles environnantes appartenant à l'Archipel de Solor.

IX. En compensation de ce que le Portugal pourrait perdre l'échange des possessions respectives ci-dessus mentionnées, Gouvernement des Pays-Bas :

1. Donnera au Gouvernement Portugais quittance complète la somme de 80,000 florins, empruntée en 1851 par le Gouverneme des possessions Portugaises dans l'Archipel de Timor au Gouvern ment des Indes Néerlandaises ;

2. Remettra en outre au Gouvernement Portugais une somm de 120,000 florins des Pays-Bas.

Cette somme sera versée un mois après l'échange des ratificatio du présent Traité.

X. La liberté des cultes est garantie de part et d'autre a habitants des territoires échangés par le présent Traité.

XI. Le présent Traité, qui sera soumis à la sanction des pouvoi législatifs en conformité des règles prescrites par les lois fond mentales en vigueur dans les Royaumes des Pays-Bas et du Portug sera ratifié et les ratifications seront échangées à Lisbonne, da le délai de 8 mois, à partir de sa signature, ou plutôt, si faire peut.

En foi de quoi les Plénipotentiaires respectifs ont signé le pr sent Traité, et y ont apposé le sceau de leurs armes.

Fait à Lisbonne, le 28 Avril, 1859.

(L.S.) A. M. DE FONTES PEREIRA DE MELL

[redacted]

Lubeck, Bremen and Hamburg and his own dominions, most graciously accepted the proposals of the Senates of the said Republics for negotiating a Treaty of Amity, Commerce, and Navigation for the support of mutual welfare and mutual commercial interest, the Senates of the Hanseatic Republics of Lubeck, Bremen and Hamburg have accordingly appointed as their Plenipotentiary William Henry O'Swald, junr, Esq., a citizen of the Hanseatic Republic of Hamburg and actually residing in the city of Zanzibar, island of Zanzibar, and the Sultan of Zanzibar Seyed Magid Bin Seyed has resolved personally to carry on negotiation with the said Plenipotentiary. The Plenipotentiary of the above mentioned Hanseatic Republics having represented to His Highness the Sultan of Zanzibar, that he was vested with the requisite powers, the following Treaty has been concluded by the consent of both the High Contracting Parties.

ART. I. There shall be a perpetual peace and amity between the Hanseatic Republics of Lubeck, Bremen and Hamburg and His Highness Seyed Magid Bin Seyed, Sultan of Zanzibar.

II. The citizens of the Hanseatic Republics of Lubeck, Bremen and Hamburg shall have free liberty to enter all the ports of the dominions of His Highness Seyed Magid Bin Seyed, Sultan of Zanzibar, with their cargoes of whatever kind the said cargoes may consist; and they shall have liberty to sell the same to any of the subjects of the Sultan, or others who may wish to buy the same or to barter the same for any produce or manufactures of the kingdom or other articles that may be found there. No price shall be fixed by His Highness the Sultan or his officers on the articles to be sold by the merchants of the before mentioned Hanseatic Republics or the merchandize they may wish to purchase, but the trade shall be free on both sides to sell or buy, or exchange on the terms and for the prices the owner may think fit; and whenever the said citizens of the said Hanseatic Republics may think fit to depart, they shall be at liberty so to do, and if any officer of His Highness the Sultan shall contravene this article, he shall be severely punished.

III. Vessels of the Hanseatic Republics of Lubeck, Bremen and Hamburg entering the port of Zanzibar or any other port within His Highness the Sultan's dominions, shall pay no more than 5 per cent. duties on the cargo landed, and this shall be as a full equivalent and in lieu of all other import and export duties, tonnage-dues, licences to trade, pilotage, anchorage or any other charges whatever.

Nor shall any duty or charge be paid on that part of the cargo which may remain on board unsold and re-exported.

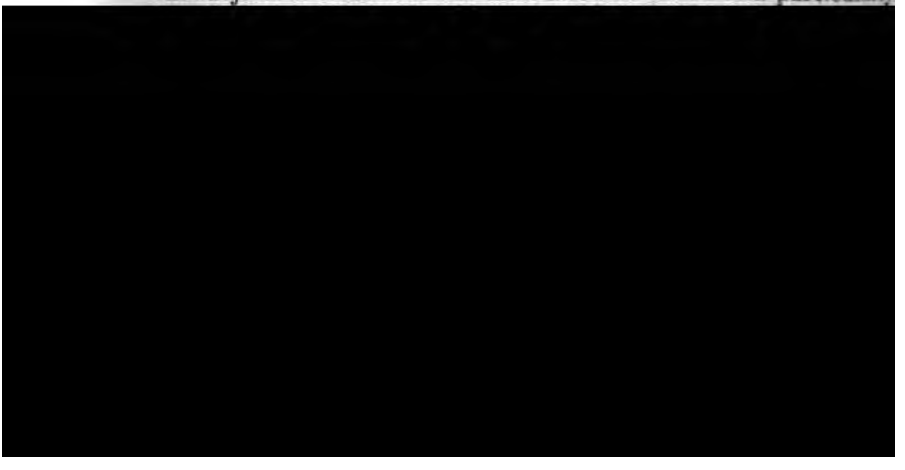
Nor shall any charge whatever be paid on any vessel of the Hanseatic Republics which may enter any of the ports of His

Highness the Sultan's dominions for the purpose of refitting o for refreshments or to inquire into the state of the market.

And it is also well understood and agreed upon as follows Should any vessel of the Hanseatic Republics of Lubeck, Bremer and Hamburg, whether she has been loaded before in Zanzibar or in any other port within His Highness the Sultan's dominions, or in any foreign port, be obliged to return to or enter any port within His Highness the Sultan's dominions for the purpose of repairing the ship's damages sustained at sea by stress of weather or by some other accident of the seas, and thereby be obliged to unload her cargo, such vessels shall be permitted to land her said cargo free of duty, and shall pay no duty whatever on such cargo landed, provided it being re-shipped either on board the said vessel or on board any other vessel, should the sea-damaged vessel be condemned.

IV. His Highness the Sultan of Zanzibar hereby engages not to permit the establishment of any monopoly or exclusive privilege of sale within his dominions, except in the articles of ivory and gum copal on that part of the east coast of Africa from the port of Tangate, situated in about 5½ degrees of south latitude to the port of Quali, laying in about 7 degrees south of the equator, both ports inclusive, but in all other ports and places in His Highness the Sultan's dominions there shall be no monopoly whatever, but the citizens of the Hanseatic Republics of Lubeck, Bremen and Hamburg shall be at liberty to buy and sell with perfect freedom from whomsoever and to whomsoever they choose, subject to no other duty by Government than that before mentioned.

V. The citizens of the Hanseatic Republics of Lubeck, Bremen, and Hamburg shall enjoy all the privileges and advantages with respect to commerce or otherwise, which are or may be accorded to the subjects or citizens of the most favoured nation and particularly



the dominions of His Highness the Sultan of Zanzibar, and property saved therefrom under similar circumstances in the ports and on the coasts of the Hanseatic Republics of Lubeck, Bremen, and Hamburg.

VII. The citizens of the Hanseatic Republics of Lubeck, Bremen, and Hamburg, resorting to the ports of His Highness the Sultan's dominions for the purpose of trade, shall have leave to land and reside in the said ports as well as to purchase, sell or hire land or houses there. The houses, warehouses or other premises occupied by the citizens of the three Hanseatic Republics, or by persons in their service, shall not be forcibly entered without the permission of the Consul of the Hanseatic Republics.

VIII. If any citizen of the Hanseatic Republics of Lubeck, Bremen, and Hamburg, or their vessels or other property, shall be taken by pirates, and brought within the dominions of His Highness the Sultan, the persons shall be set at liberty, and the property restored to the owner, if he is present, or to the Consul of the before mentioned Hanseatic Republics, or to any authorized agent.

IX. Vessels belonging to His Highness the Sultan of Zanzibar or vessels belonging to his subjects which may resort to any port of the Hanseatic Republics of Lubeck, Bremen, and Hamburg shall pay no other or higher rate of duties or other charges than the nation the most favoured shall pay.

The subjects of His Highness the Sultan shall be permitted to reside and pursue commerce in all parts of the Hanseatic Republics of Lubeck, Bremen, and Hamburg, submitting themselves to the laws of the country. They shall enjoy the fullest protection for their persons and for their property.

X. The Senates of the Republics of Lubeck, Bremen, and Hamburg may appoint Consuls to reside in the ports of His Highness the Sultan's dominions, where the principal commerce shall be carried on. The said Consuls shall at all times be placed on the footing of the Consuls of the most favoured nations, and shall enjoy the same privileges, immunities and exemptions which are enjoyed within the same dominions by similar public functionaries of other countries.

XI. The Consuls of the Hanseatic Republics of Lubeck, Bremen, and Hamburg shall have the power to receive the property of the citizens of the 3 Hanseatic Republics dying within the dominions of His Highness the Sultan, and to send the same to their heirs, first paying all their debts due to the subjects of His Highness the Sultan.

XII. The authorities of His Highness the Sultan of Zanzibar shall not interfere in disputes between citizens of the Hanseatic Republics of Lubeck, Bremen, and Hamburg, or between the said citizens and the subjects or citizens of other Christian nations.

When differences arise between a subject of the dominions of His Highness the Sultan of Zanzibar and a citizen of the above mentioned Hanseatic Republics, if the former is the complainant the cause shall be heard by the Consul of the 3 Hanseatic Republics, who shall administer justice thereupon; but if the citizen of the 3 Hanseatic Republics is the complainant against any of the subjects of His Highness the Sultan of Zanzibar, or the subjects of any other Mahomedan Power, then the cause shall be decided by the highest authority of His Highness the Sultan of Zanzibar or by any person nominated by him; but in such case the cause shall not be proceeded in except in the presence of the Consul of the Hanseatic Republics of Lubeck, Bremen, and Hamburg, or of some person deputed by him.

XIII. If a citizen of the Republics of Lubeck, Bremen, and Hamburg shall become bankrupt in the dominions of His Highness the Sultan of Zanzibar, the Consul of the 3 Hanseatic Republics shall take possession of all the property of such bankrupt, and shall give it up to his creditors to be divided among them. This having been done, the bankrupt shall be entitled to a full discharge from his creditors, and he shall not at any time afterwards be required to make up his deficiency, nor shall any property he may afterwards acquire be considered liable for that purpose. But the Consul of the Hanseatic Republics of Lubeck, Bremen, and Hamburg shall use his endeavours to obtain for the benefit of the creditors all the property of the bankrupt, and to ascertain that every thing possessed by the bankrupt at the time when he became insolvent has been given up without reserve.

XIV. If a subject of His Highness the Sultan of Zanzibar should resist or evade payment of his just debts to a citizen of the Hanseatic Republics of Lubeck, Bremen and Hamburg, the authorities of His Highness shall afford to the citizen of the Hanseatic Republics every aid and facility in recovering the amount due; and in like manner the Consul of the 3 Hanseatic Republics shall afford every aid and facility to subjects of His Highness the Sultan of Zanzibar, in recovering debts justly due to them from a citizen of the Hanseatic Republics of Lubeck, Bremen, and Hamburg.

XV. His Highness the Sultan of Zanzibar shall be at liberty to appoint Consuls in the cities and ports of the Hanseatic Republics of Lubeck, Bremen, and Hamburg, for the protection of his own interest or that of his subjects, and such Consuls shall enjoy the same rights, liberties and privileges, which the Consul of the most favoured nation shall enjoy.

XVI. The present Convention shall be ratified and the ratification thereof shall be exchanged at Zanzibar as soon as possible.

Concluded, signed, and sealed at the Royal Palace of His High-

ness the Sultan of Zanzibar, in the city of Zanzibar, island of Zanzibar, the 13th day of June, in the year 1859 of the Christian era, corresponding to the 11th day of the moon called Zilkad in the year of the Allhajra (Hegira) 1275.

For the Senates of the Hanseatic Republics of Lubeck, Bremen, and Hamburg.

(L.S.) WILLIAM HENRY O'SWALD, JR.

(L.S.) SEYED MAGID BIN SEYED, *Sultan of Zanzibar.*

DECREE of the Federal Government of Mexico, relative to the Payment of Loans made by British Subjects.—October 14, 1850.

(Translation.)

Palace of the Federal Government, Mexico, October 14, 1850.

I, JOSE JOAQUIN DE HERRERA, General of Division and President of The United States of Mexico, make known to the inhabitants of the Republic: that the General Congress has decreed the following:

ART. I. If the creditors of the debt contracted in London, and converted in the year 1846, agree to the conditions expressed in the following Articles, the Government will deliver to them an order for the payment of 2,500,000 dollars of what is owing for indemnity money by The United States.

II. The conditions to which the preceding Article refers are as follows:

1. That the interest of the debt shall be definitively reduced to 3 per cent. per annum upon the capital of 10,241,650*l.* sterling, the only amount of capital which the nation acknowledges.

2. That with the said 2,500,000 dollars, along with the money received up to the date of the present law, and also with that which will be received up to the approval of the settlement which is now proposed to them, the creditors shall consider themselves paid for all the arrears of dividends up to the very day of the settlement being agreed to.

3. For the payment of the dividends of the new stock of 3 per cent. there shall be specially assigned 25 per cent. of the import duties of the maritime and frontier Custom-Houses, 75 per cent. of the export duties by the ports of the Pacific, and 5 per cent. of the same duties by the ports of the Gulf; the amount of the dividends to be completed from other national revenues, when the preceding assignment shall not suffice to cover the whole.

4. During the first *six* years following the settlement there shall

not be applied to the sinking fund more than the surplus of the assignment, if there be any surplus; this term expired, there shall be remitted annually to London 250,000 dollars for the sinking fund, which shall be done at the rate of the day, provided it does not exceed par.

III. The holders of bonds can, if they think it advantageous, appoint agents in the ports, accredited by nomination; but from the moment the said agents receive the funds, all responsibility shall cease on the part of the Mexican Government, who will provide for the usual charges of shipping and landing, insurance and freight.

IV. The actual bonds converted in the year 1846 shall be exchanged for others which the Treasury shall issue, and which shall be countersigned by the Agent of the Republic in London. N bond of the new stock shall be issued without having had exchanged for it one of the old stock of the same value, number, and letter. The bonds withdrawn shall be cancelled by making an incision in the middle of them, an inch in diameter, and they shall be deposited in the archives of the Legation, which will publish monthly a notification in detail of the bonds cancelled. The Republic declares that it is not responsible for bonds issued at variance with these precise conditions. The Republic will not pay either commission, brokerage, or agency charges, for the conversion to which the present law refers.

V. The agency in London shall be carried on by commissioners removeable at the will of the Government, and with no right to any allowance when not employed; they must be Mexican citizens by birth, and their chief shall be appointed by the Government, with the approbation of the Senate; the expense of these officials is not to exceed 15,000 dollars per annum. The functions of the agent with respect to the distribution of the funds shall be confined to depositing the money which shall be remitted to him in the bank, and to the payment of the dividends at the proper time.

JOSE JOAQUIN DE HERRERA.

DECREE of the President of the Republic of Mexico, for the Payment of Loans made by British Bondholders.—Mexico, January 23, 1857.

(Translation.)

I, IGNACIO COMONFORT, President Substitute of the Mexican Republic, decree as follows:

ART. I. From the publication of this decree in every port, the

managers of the maritime and frontier Custom-Houses shall draw against the importers and in favour of the agents of the bondholders of the debt contracted in London, for the portion of duties which section 3 of Article II of the law of the 14th of October, 1850,* assigns for the payment of the dividends of the said debt. These bills shall be made payable in hard eagle dollars of the legal stamp, weight, and assay, and after having been duly accepted shall be delivered to the agent named by the bondholders themselves, or through the medium of a commissioner in the Republic. The same agent will also receive in due course such parts of the duties payable in cash as are assigned to the payment of dividends.

II. Immediately on delivery of the money and the bills the responsibility of the Government ceases, unless the bills be returned protested in due time and form.

III. The agents shall remit to the Bank of England, to the joint consignment of the financial agency of the Republic and of the committee of bondholders, the amount collected by them, which shall be realized and credited in the same manner as hitherto.

IV. The maritime Custom-Houses shall only pay the cost of the boxes, packages, and shipping charges of the money until placed on board the vessel conveying the remittances direct. These direct remittances shall be made by vessels of war, packets, or, in their default, by English merchant ships; and on remittances made by way of the Isthmus, the Custom-Houses shall also defray the freight to Panama or the port of embarkation in the Pacific. The usual freight, insurance, and discharge in England shall be paid in London by the Mexican agency, which shall advise the amount to the Finance Department, in order that it may be replaced by the following packet.

V. In the ports where there are no agents, or where there is no facility for the remission of specie, the Government shall receive the amount which has to be set aside on account of the bondholders, and every 3 months shall pay the amount so received in another port agreed on, giving order to that effect to the manager, so that he may pay it over, and provide for the expenses just as he would if the whole were of his own collection.

VI. The commission of the port agents shall be on account of the bondholders exclusively; but as a measure of convenience the former shall be empowered to deduct the said commission at the time of embarking the amounts collected, and the Mexican agency in London shall charge it in account current to the bondholders, and deduct the amount on the payment of the dividend, as well as any other expense incurred by the committee for the management of their affairs.

* Page 1123.

paid more in money or bills. The manag
these documents, and remit another to th
which has the management of the accour
London, and the third to the general Tre

X. The funds which on the publicati
by the collectors of the maritime Custon
to the English debt shall be delivered
which are still to be collected shall be p
expiration of the periods, as set forth in

XI. The salaries of the Mexican ag
Custom-House of Vera Cruz out of th
duties, remitting every month 1,250 doll
tance being deferred, the agency shall
dividend fund, on the understanding t
following month.

I therefore order that this shall be p
effect accordingly. Given in the palace t
in Mexico, 23rd January, 1857.

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CORRESPONDENCE between The
relative to the Recognition by T
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between Vivanco and Castillo; an

direct his attention to the claims addressed to the Peruvian Government by the Minister of The United States at Lima, as they appear in the notes of the 4th and 9th of February ultimo, which he deemed it proper to transmit to his Excellency the Minister of Foreign Relations of Peru, and which are now within the reach of the Secretary of State.

The Minister of Foreign Relations of Peru has minutely and satisfactorily answered all that was alleged in the notes referred to accompanying such answer with the proofs and documents upon which the Government of Peru relies to deny *in toto*, the justice, and even the plausibility of the claims to which reference is made.

The Undersigned would deeply regret that the documents and declarations alluded to should not have been communicated to the Cabinet of Washington; for through them only can an equitable settlement be made of the serious questions which have been started in that correspondence.

In instructing the Undersigned to enter into direct communication with the Government of The United States, the Government of Peru was moved by the desire that no effort should be wanting on its part to satisfy the former of the sincerity and good faith with which the latter has in this case striven, as it will ever strive, to cultivate and deserve its friendship. It also had for its object to show in this form the deep reliance which it has ever placed in the moderation and the equity of the Government of The United States, preferring to recur to them rather than continue, with its Minister at Lima, a discussion, in the course of which the Government of Peru regrets to have discovered in his proceeding a want of that impartiality and friendly disposition so necessary to maintain, in all cases, relations of good understanding between Governments.

In his communication dated on the 4th of February last, the Minister of The United States in Peru calls the attention of that Government to the case of the American barque *Dorcas C. Yeaton*, and of her captain, Samuel Potte, alleging the following in said case:

That, on the 23rd of January, 1858, in latitude 22° 13′, longitude 71° 31′, on the high seas, at 7 o'clock A.M., said barque was detained by the Peruvian armed steamer *Tumbes*, with hostile demonstrations; that the barque having heaved-to, Lieutenant Dueñas, the commander of the steamer, ordered her to be boarded, despatching for that purpose one of his boats under the order of an officer; that said officer boarded her, in fulfilment of his orders, and asked, in the language of authority, to be informed of the route which she was pursuing, as well as for the delivery of her papers; that Captain Potte obeyed under protest, and that the Peruvian officer went back to the steamer with the papers; that he soon

returned, ordering the Captain to accompany him on board of the *Tumbes;* that Captain Potte refused, and insisted that the flag and character of the vessel should be respected, but that, the officer repelling all excuse, the captain was compelled to obey, although protesting that he would make Commander Dueñas and his Government responsible for the outrages which were committed against him; that on his reaching the steamer he again protested before her captain against the unlawfulness of such acts, but that his representations were disregarded; that the Captain of the *Tumbes* eventually resolved that the barque should not continue her course, but, on the contrary, to send her under duress to Callao; that he abstained from taking forcible possession of her out of respect for the wife and family of the Captain who were on board, but exacted his word of honour that he would immediately and directly proceed to Callao; that, accordingly, the *Dorcas C. Yeaton* proceeded for that port, with a prize officer on board detached from the *Tumbes* for that purpose.

The Minister of The United States alleges that the barque, upon her arrival at Callao, was boarded by an officer of the captaincy of the port, who took possession of her papers, and ordered Captain Potte to accompany him ashore, treating him in an arbitrary, rude, and threatening manner; that the Captain had no choice but that of obedience, and that he was then taken to the office of the Port Captain, and thence to the residence of the Governor, where he was examined and asked whether he wanted a cargo of guano for The United States, in which case he was told that one would be given to him when he was set at liberty. The Minister adds, that the conduct of Commander Dueñas had been approved by the council of Ministers of Peru, and sustained by the Minister of Foreign Relations in an interview which he had with his Excellency. Reassuming these facts, after alluding to them in detail, the Envoy Extraordinary and Minister Plenipotentiary of The United States concluded by denouncing them as a serious insult to the flag, the rights and the dignity of The United States, and, in consequence thereof, peremptorily demands:

First, That the Government of Peru shall give such satisfaction as the Government of The United States may prescribe.

Secondly, That Lieutenant Don Ygnacio Dueñas be suspended from his command, and continue out of the service of the Republic for such time as the Government of The United States may define; and,

Thirdly, That ample indemnification be made to the owners of the *Dorcas C. Yeaton* for all damages that may result from the facts mentioned.

Before reaching conclusions so serious as these, which might

involve still more serious consequences, and demanding a satisfaction which is, in terms, most offensive to Peru, because they imply nothing less than the annulment of her laws and tribunals, the Minister of The United States in Lima, it was to be hoped, might have dwelt with some measure of soberness and attention in his investigation on the grounds of claims that are so serious, peremptory, and extraordinary. The Government of Peru has certainly, up to this time, evinced no disposition the least to violate the rights or to insult the dignity of The United States; and, although such a disposition may be unjustly, gratuitously, and groundlessly imputed to her, the relative circumstances and forces of the two nations, no less than the fact that the interests of Peru depend on the continuance of her pacific relations with all nations, and especially with the people of The United States, would seem to tell sufficiently upon any dispassionate mind to render impossible the very idea that the Government of Peru should attempt or pretend to dishonour the flag of that Republic. No doubt it is quite possible that, in Peru, as in any other country, an officer in her service may commit, through want of reflection or due prudence, some act which would require satisfaction; but it seems impossible that his Government, proceeding in a dispassionate manner, and with a knowledge of the facts, should, without reason, assume upon itself the very serious responsibility of adopting and approving such a conduct. The very fact of the Government's publicly approving the conduct of Commander Dueñas, it seems to the Undersigned, ought to have started some doubt in the mind of the enlightened Minister of The United States at Lima as to the accuracy of the facts on which he has insisted with so much energy.

The experience which his Excellency, through a long residence in Peru, has gathered as to the character of its Government, the deep and habitual respect with which it has ever received and entertained his communications, the personal consideration which it has ever lavished upon him, and the important concessions which have constantly been made to him, only out of respect for him and for the nation which he represents; all these, it seems, ought to have checked the severe and hasty judgment which he has been pleased to pass upon this matter. At the time of writing his communication, his Excellency had under his eyes Commander Dueñas' official report, published on the 30th of January in the "Peruvian," the Government's official paper, which positively states that the change in the vessel's course was made in consequence of an "agreement" with the captain; and whilst his Excellency is pleased to assume, as truthful, one sentence of the report which will be hereafter alluded to, and which he considers accusatory of the Commander of the *Tumbes* and of his Government, he chooses to argue of falsehood the rest of the

document which testifies the good faith and legality of the conduc of that officer.

In order to set up and sustain the serious claims referred to, th Minister of The United States relies exclusively on the protest mad for the purpose on the 23rd of January, 1858, by Captain Potte, hi pilot, and two of his sailors. The Minister of Foreign Relations o Peru, in his note of the 9th of February, communicated to th Minister of the United States in Lima the minutes of the declara tions of Captain Potte, the pilot, John P. Coggwell, and the second pilot, Joseph P. Cunningham; as also those of the commander o the *Tumbes*, of the officer who boarded the *Dorcas C. Yeaton*, of th five sailors who were in the boat with him, together with that of the marine who was transferred to Callao in the barque; all taken before the judge of the first instance at this port, sworn to and subscribed by all of them, and all evidencing the complete falsity of the allega tions of the protest, as the honourable Secretary of State will perceive from the copy which the Undersigned has the honour of transmitting to him. From these declarations Honourable Mr. Cass will see that the true relation of the facts is the following:

Commander Dueñas having been ordered to pursue and capture those vessels which, according to the information of the Govern ment, had gone to Punta de Lobos and Pabellon de Pica, in col lusion with the insurrectionists of the south of the Republic, for the criminal purpose of working the deposits of national guano at those points, met on his voyage the *Dorcas C. Yeaton*, which was sailing in that direction. He made the usual signal to her to heave to, and sent an officer to her, unarmed and accompanied by 5 men in a boat, the men also being unarmed, in order to ascertain whence she came and whither she was sailing. The sailors remained in the boat, and the captain went on board, in the most peaceful manner; the captain receiving him courteously on the deck of the barque. Being asked whence he had come, and to what point he was going, the captain answered that he was on his way to Iquique, and voluntarily exhibited his papers, and as readily delivered them also to the officer, who returned to the steamer. The papers showing a discrepancy, namely, that the barque had been cleared for Callao by the way of Valparaiso, whence it had proceeded, whilst the Consul of The United States at that port had cleared her for Iquique, the officer returned to inquire into the cause of this irregularity, and the captain of the barque, wishing to give a satisfactory explanation, proceeded of his own accord and will aboard of the *Tumbes*, where he entered into a free and voluntary communication with its Com mander. Mr. Dueñas being convinced, by Captain Potte's repre sentations, that he had no other object in going to Iquique than that of securing freight to return home, he promised him, if he

would return to Callao, he would be liberally paid for his delay and that he would procure him a cargo of guano from the Chincha Islands, with a most profitable freight. Commander Dueñas' object in making this proposition was assuredly to turn the barque aside from a criminal undertaking, which might have involved its owners in fatal consequences and complicated the relations of both nations. It went also to deprive the insurrectionary forces of the advantages which they might derive from the plundering of the guano deposits, by selling one more cargo of that article. Captain Potte could not but find the offer a most advantageous one, and he not only accepted it, but also asked Commander Dueñas for a formal communication for the General-Commandant of Marine at Callao, in order that the arrangement might be carried out without any delay; requesting, at the same time, that he might be accompanied by an officer of the *Tumbes*, in the character of a passenger, to bear this communication. To this Mr. Dueñas assented, and Captain Potte cheerfully proceeded to Calloa, where the agreement was carried out, and he was given, on the part of the Government's consignees, a contract of freight to carry guano to the States, at the rate of 20 dollars per ton, and, besides this, the large sum of 9,600 dollars for all expenses of demurrage and such damages as might accrue to him in any manner, from the change of her voyage under the circumstances. It is remarkable that this statement is backed not only by the declarations above cited, but that also on the 1st of February, 3 days before the communication of the Minister of The United States in Lima, Captain Potte made affidavit of the same and signed it before the Consul of The United States, who certified to it, as appears from the copy on file in this Legation, embracing also the terms and conditions of the agreement. The Undersigned has the honour of tendering to the Secretary of State all the official documents relative to the business, by which the accuracy of the facts which he has just related will originally and incontestibly appear.

The Undersigned has merely to advert to the commentary which the Minister of The United States in Lima makes on the expression used by Commander Dueñas in his official communication or statement, when he says: "I made Captain Potte come on board." This phrase seems scarcely to be considered worthy of a serious official communication or of special mention; and the Undersigned declines to the belief that the Minister has not, in this instance, appreciated with his usual accuracy the true value of words—a very natural thing when a foreign language is in question, however well known that language may be. The phrase to "make come" does not necessarily imply the use of force or coercion. A friendly invitation or a mere suggestion can "make come" just as well as a threat or act of violence. That Mr. Dueñas used the phrase in a

plain and not offensive sense is proved, not only by his own declaration, but by that also sworn to by Captain Potte, who referring to the interview on board of the *Tumbes*, and to the other facts, says that "in all those acts there was, on his part, the most ample liberty, without his suffering any intimidation." If any greater confirmation of this solemn declaration could be required it might be found in the document cited above, which was subscribed before the Consul of The United States on the 1st of February, in which Captain Potte also asserts "that he has no complaint to make nor blame to cast against the said Commander of the *Tumbes* or his Government."

In view of such facts, so authentically and solemnly put together, not only by the Peruvian officers who participated therein, but by the very witnesses, themselves interested, who drew up the protest upon which the Plenipotentiary of The United States has grounded his claim, it seems to the Undersigned unnecessary to go into a discussion of the questions of law which have been broached in the correspondence between his Excellency and the Minister of Foreign Relations of Peru. The facts assumed having no existence, there is no ground for an accusation, nor can there be any reason for defence or vindication. And here the Undersigned must declare his inability to understand the intentions of the said Plenioptentiary of The United States in stating, in his communication of the 10th of February to the Minister of Foreign Relations of Peru, after having received the documents mentioned, that he sees "no good reason to change or modify his demand for satisfaction for the offence committed against the flag of The United States by the Commander of the *Tumbes*." The declarations of the captain of the *Dorcas C. Yeaton* and of his mates have to be either false or true; if the former, the cause of the complaint which, according to his Excellency, exists, cannot be conceived, since they positively deny the fact of violence, of arbitrariness and coercion, which was the exclusive ground for the supposed offence; if the latter, being given under oath, it is equally hard to suppose that The United States' Minister in Lima, or the enlightened Government which he represents, can hold up such persons to the world as worthy vouchers for a serious accusation against a friendly nation whose officers—men of honour and of character—indignantly deny it under the solemn responsibility of an oath, whilst their Government itself formally disclaims the offensive intention implied from the presumed facts. If Captain Potte and his mates are capable of making a false declaration they must be equally so of making an unfounded protest. The one cannot be ascribed to them without ascribing the other also.

The Undersigned does not pretend to solve so difficult a question, because it is not his duty to do so. It is enough that, with all due respect, he should cast back a gratuitous accusation, without taking

upon himself the defence of the witnesses who have been called to support the charge. On the contrary, he would most sincerely wish that he could find some reason for impugning the assertion under oath, made by Captain Potte and his mates, that he had made his protest in consequence of the instigations of the Consul of The United States, and of orders, as he understands, of the Minister resident of this capital. If there be no mistake, as the Undersigned hopes there may, in this and the subsequent statement, made by Captain Potte, to the effect that in the room of the chief clerk and in his presence, said Minister had reproved him for accepting the contract for freight, already referred to, "adding that he acted under bad advice;" then would be revealed, in a broader light, on the part of the Minister Plenipotentiary of the United States in Peru, a spirit no way subservient to the impartial examination of questions of so delicate a nature, and one, it may be, incompatible with the due exercise of his high functions at the seat of Government of Peru.

Before passing over to the other question, to which the Undersigned would desire to call the attention of the very Honourable Secretary of State, he cannot but advert to the remarkable observation made by the Minister of the United States in Lima, in his communication of the 4th of February, in which he lays down the *gravamen*, as it were, of the offence attributed to Commander Dueñas, in attempting to visit a vessel of the United States on the high seas, "in a time of profound peace." It is hard to realize the words quoted in view of the facts laid down by the Minister himself in his communication of the 9th of February, in which, in order to sustain the legality of the traffic in which the vessels captured at Punta de Lobos and Pabellon were engaged, his Excellency declares that Vivanco's rebellious party, under whose protection the vessels referred to pretended they were acting, was "in a state of civil war" with the lawful Government, and therefore invested with the rights of a belligerent nation. If the revolutionary party be a belligerent one, even so must be the Government against which it is waging war; and, consequently, the Minister himself, by his own argument, declares that "Peru is in a state of civil war." And therefore, according to the doctrine of his Excellency, Peru exhibits the spectacle, somewhat anomalous indeed, of being at one and the same time at peace and at war. It is at peace when its belligerent rights are to be denied; it is at war when it is sought to refuse it the right of a nation at peace and invest the plunderers of its property with the respectable character of neutrals engaged in lawful trade by the laws of war!

The Secretary of State, with his great experience in questions of this nature, will not fail to perceive that the true principle of the law of nations, which applies to the present case, is equally removed

from the two extremes, where it is placed by the Minister of The United States in Lima. Without being in a civil war, recognized as such in the interior, or by the exterior of the Republic, Peru regrets the existence, in a portion of her territory, of a rebellion against the lawful Government, supported by the mass of the nation, and recognized by other Governments. Speculation and plunder being the exclusive ends of that rebellion, the rebels have directed their forces almost exclusively against the deposits of national guano; and, by means of a war steamer, which the President of the Republic has declared to be a pirate, they have been, from time to time, successful in defrauding the public Treasury of large sums of money from the sale of guano at any price, inviting the adventurers of other nations to go and load their vessels with that article. The illegality of this traffic requires no demonstration; and the Government of the United States, which would be the last to tolerate such in its own case, would also not fail to stamp with serious reprobation any participation in it by its citizens. As little does the Undersigned doubt that this Government would consider itself fully bound to prevent, in its own case, a spoliation of its property by the citizens of other nations, conniving with its own in a state of insurrection, and to adopt measures for visiting suspicious vessels at those places where they might reasonably deem it proper to exercise a lawful supervision. The Government of Peru and the Undersigned by no means deem it necessary, in this case, to discuss or put forward the right of visitation. Honourable Mr. Cass has verbally stated to the Undersigned that there are cases in which a national vessel might be justified in visiting a merchant vessel on the high seas, and that the Government of the United States would not, in such cases, make a formal reclamation; and the Honourable Secretary of State had the kindness to put a case entirely applicable to the case and the circumstances of the *Tumbes* when she signalled the *Dorcas C. Foster* to heave to. This is enough to absolve the Undersigned from the necessity of insisting here on the right which all nations have to protect themselves, under certain circumstances, independently of the strict question of belligerent and neutral principles.

The port of Iquique, to which Captain Potte was shaping his course, is one of the ports of the Peruvian territory frequented by the piratical steamer already mentioned. The principal cargo to be derived from its neighbourhood must be one of national guano. The discrepancy between the clearances, one being for Callao and the other for Iquique, clearly confirmed the suspicion, raised by the direction which the vessel was pursuing and the locality where it was met. The courtesy with which, notwithstanding this, she was treated—the total absence of extortion or violence, and the marked advantages which it derived from the interruption of the voyage—

everything should go to satisfy the Secretary of State, as the Undersigned trusts, of the respect and consideration which the Government of Peru and its officers strive to pay to the flag of the United States and to the rights of its citizens.

With these observations, the Undersigned passes on to the consideration of the despatch of the United States' Minister at Lima, dated February 9, through which his Excellency claims against the Government of Peru all the damages and injuries which may ensue from the capture of the American vessels *Georgiana* and *Lizzie Thompson* by said war steamer *Tumbes*, and from their subsequent detention by the Peruvian Government. His Excellency also calls for the responsibility of the Government of Peru in the premises.

The facts in which the above mentioned claim is founded admit less controversy than those of the case discussed in the first instance. The *Georgiana* was captured at Punta de Lobos, on the 24th of January, 1858, and the *Lizzie Thompson* on the same day, at Pabellon de Pica. Both had on board part of their cargo of guano from those deposits; the confessed object of their presence at the points referred to being to take in guano for exportation to foreign ports. They were taken under capture to Callao, where their Captains, H. A. Wilson and Stephen Reynolds, with the mate of the *Georgiana*, L. A. Hamilton, after three days' imprisonment, were released, under security, as they were charged with a violation of the criminal laws of the Republic. The Minister of The United States in Lima deems it proper to maintain, in his aforementioned communication, three propositions in relation to those facts:

First. That neither the vessels nor their captains had participated in any criminal or scandalous contraband;

Secondly. That the arrest of the vessels and of their officers was not in virtue of a perfect right;

Thirdly. That the manner of the arrest and of taking them to Callao was irregular, cruel, and illegal.

The Undersigned intends to give to each of these propositions its relative consideration, without, however, entering upon the discussion of some points, set forth in connexion with them, by the Honourable Minister of the United States, a connexion which, in the humble opinion of the Undersigned, as touching the legitimate object of the controversy, is not quite as apparent as might be desired.

It is needless to repeat that "Punta de Lobos" and "Pabellon de Pica" are two points where deposits of natural guano are found, public property of the Republic of Peru. In the "report on the commercial relations of the United States with foreign nations," transmitted on the 4th of March, 1856, to the House of Representatives, by the worthy predecessor of the Honourable Secretary of State, and printed and distributed by order of Congress, is to be

found, at page 700 of the first volume, an exact description of those deposits, their locality, and their extent. Article 15 of the Commercial Regulations, promulgated by the Government of Peru in 1852, declares that "the vessels that take in guano for foreign ports shall be allowed to do so in the Chincha Islands only." Article 114 of said regulations provides that "the exportation of guano shall be carried on only by vessels under contract with the Government or its agent," and Article 113 states "that vessels that may be found at anchor on the coasts of the islands belonging to the Republic shall be confiscated; and moreover, that, if guano shall have been found aboard, the captains and crews be handed over to the action of customary justice to be tried as delinquents in cases of theft." The existence of this regulation must be, and it could not but have been known and understood in the Union; for in the same "report," officially presented, we find at page 685, and on the ones following, of the first volume, a detailed reference to its provisions, with the special information touching the guano question.

Besides what has been cited, we find in their full vigour, and as they still are with some charges therein mentioned, the decrees of the Government of Peru in relation to the contraband of guano, dated January 14, March 21,* and May 10, 1842,† lately reprinted for abundant caution in the official paper of the 27th of February, 1857. They declare "that no quantity of guano shall be taken out, for exportation to foreign ports, from any portion of the territory of the Republic, unless from the northern island of the Chincha group;" "that no authority of the Republic can, in any case, grant permits to take out guano for foreign exportation, and that the Custom-Houses, with the exception of that at Callao, shall refuse all clearances applied for; that every national or foreign vessel that may anchor at or come to the islands or places where guano may be found, without

[redacted]

of the public order, or by virtue of contracts made with them, or with their agents, shall at all times be subject to be claimed back as stolen national property, and the parties responsible therefor shall be civilly and criminally prosecuted in conformity with law."

Such being the provisions of the existing laws of Peru, laws in vigour at the time when the *Georgiana* and the *Lizzie Thompson* were captured, laws promulgated, the most part of them, many years back, and the most recent of them nearly 10 months before the arrest was made; the government of the Union itself having nearly two years before officially recognized and indicated the most important of them; and it being equally notorious and public in the Union, from the discussion between the two Governments in relation to the Chincha Islands, that the guano deposits in Peru are the exclusive property of the nation, the products of which are exclusively worked out and sold by the agents of the Republic under contracts; the Undersigned will take for granted that there is, binding upon the captains and crews of the vessels referred to an obligation to conform their action to those laws, or to incur the penalties which they provide. It being also granted and acknowledged that those vessels were met at points interdicted, not only without permits from the lawful authorities of the Republic, but in the act also of doing that which, under the laws, no authority of the Government, however legal it may be, can lawfully allow; that considerable quantities of guano, the property of the nation, had been found on board of those vessels; that the Captains themselves had accepted and signed contracts for freight, to take the guano from those points, in violation of the laws quoted, and in contempt of their authority, of respect for, and of the rights of the Republic; it is no easy matter to understand that system of reasoning which results in declaring them absolved from all criminal responsibility.

Setting aside the observations, no doubt very interesting and worthy of the acknowledged distinction of the Honourable Representative of The United States in Lima, touching the rights of nations under republican institutions, the arguments by which he maintains his first and second propositions are reduced to two.

First, that the Captains of the vessels arrested having gone to Chincha in the pursuit of lawful commerce, and being there met with by official agents of an apparently lawful character, they were bound to obey them and to act to the extent allowed by the possession of those *de facto* authorities; and that they had such permission to go and take guano in the ports mentioned, and that if the permits were illegal the blame must not attach to them but to the pretended authorities.

Secondly, that Peru was, and it had for nearly two years been, in a state of civil war; that the existence of the revolution was

well known; that, according to the modern doctrine of the rights of nations, the two contending parties occupy, toward each other and toward the other nations, a belligerent position, which position imparts to individuals of the friendly nations the rights of neutrality as in a case of perfect public war.

The same discrepancy, previously noticed between the profound peace of Honourable Mr. Clay's communication of the 4th of February and the state of "civil war," commented in this note, seems to the Undersigned to lie at the ground of the two arguments which he has just reproduced. If the vessels in question went as neutrals to Iquique, prosecuting their commerce in a port of a nation at war, it seems difficult to ascribe to their Captains the innocent and natural error, under the influence of which, it is supposed, they in good faith mistook the pretended authorities of the insurrectionists for the lawful authorities of the Government of Peru. If, on the other side, they entered Iquique as a port of a nation at peace, intending to obey the laws and conform to existing regulations of commerce, how can they now be defended under the supposition that they claimed the rights of neutrals trading with a nation at war? But, passing by this inconsistency, or what seems to be one at least, it strikes the Undersigned that there is a conflict in the Honourable Mr. Clay's arguments, and that in a very important point, with the most sacred principles of public law.

The principle that in certain cases a civil war may confer the rights of belligerents on the two contending parties, and communicate the rights of neutrals to those who trade with them, respectively, has no doubt been admitted as a sound principle. But this principle, which is exceptional in its origin and legitimacy, has never been carried, as the Undersigned with some confidence presumes, so far as to assert that in the unfortunate event of a civil war in any nation, the members of other friendly nations have the right of determining, by themselves and for themselves, the existence of such a war, without the previous action and authority of their respective Governments. The Undersigned, on the contrary, thinks that he can rely on the distinguished support of the Honourable Secretary of State, when he advances it as a sound and settled doctrine in such cases, that the Government of The United States has first to officially recognize the state of civil war in Peru and declare their neutrality therein, before their citizens can avail themselves in Peruvian territory of the rights of neutrals in a belligerent country. Unless the Undersigned mistakes, this doctrine has received the illustrious sanction of the Supreme Court of the Union in various cases, and has decidedly so, that of the Courts of Great Britain. If it were not so, if the principle laid down by Mr. Clay could make good that the bare fact of the chiefs of an

insurrection having enough of power temporarily to command and hold possession of the property of the nation in its territory, authorizes the members of other nations to deal at once with them as the owners of what they thus hold, there could be no security anywhere, and the door would be thrown wide open to every kind of disorder and plunder. The United States, luckily powerful and happy so far, have not gone through the sad ordeal of any domestic revolution, but in the possible contingency of so disastrous an event, it might be equally daring and dangerous for the members of any foreign nation to proceed, without the previous determination of their own Government in the matter, to treat with the rebels, to help them in their spoliations of national property, and afterwards claim, for their defence or justification, the rights of neutrals during the existence of the war. The Undersigned will not say, though such an assertion might not be a very rash one, that The United States would exact a satisfaction or a compensation from that nation whose subjects might thus expose themselves; but they would certainly not allow any national intervention, however powerful it might be, to interfere with the vindication of their outraged laws. The Government of Peru confidently relies upon the conviction that the Cabinet of Washington could not wish to impose upon the other nations, much less upon those of inferior power, principles which it would not recognize in its own case.

If the Undersigned have not erred in these inferences, there is little to be added relative to the two first propositions of the Minister of The United States in Lima. It is clear that the Captains referred to cannot shield themselves behind the pretence of war or of neutrality.

The revolutionary state in the southern portion of the Republic of Peru, being as public and notorious as it is alleged to have been by the Honourable Mr. Clay—a state of confusion, which, according to his own communication had been enduring for nearly two years; a state publicly announced and freely commented upon, from its commencement, by the whole press of the Union—how can it be possible, in a question of fact, to impute to two American Captains, intelligent as all men of their class are, the gross and absolute ignorance under which they are, by his Excellency, presumed to have laboured as to so anomalous and so well known a state of things? Can it be believed that, after having been in Iquique for the length of time which they spent there, they failed to learn that the port was in possession of the insurrectionists? It is because they were not under an obligation, moral and legal, to inform themselves of so important a point? Granting, for the sake of argument, that they were uninformed of the revolutionary condition of the port and of its usurpation by the pretended authorities when they entered Iquique, *is it credible* that they were ignorant of the

fact when they sailed out of it? And aware of it, as it was their duty to be, and as they no doubt were, being under an equal obligation of ascertaining the laws of the country and paying obedience to them, if lured by a spirit of speculation or of covetousness, or if it be by a mere spirit of adventure, they resolved to violate the regulations of the Republic, to affiliate with the treasonable disturbers of its peace and to plunder its patrimony, must they not also be held to have taken upon themselves the responsiblity and the consequences of their course? It would certainly be strange, were they absolved from these for the reason that one of them had made a contract on guilty grounds with the French Consul, and that both had, in the port of Iquique, seen an English man-of-war, as the Honourable Mr. Clay so singularly insists upon. There is nothing improbable in the fact that even a Consul of any nation should fail in respect of the laws of the country in which he exercises his functions, because, both within the experience of the Union and of Peru, such cases have been known to occur. It is therefore no way strange that an armed vessel should remain in a rebellious port, not to countenance its rebellion, but, on the contrary, to protect the citizens of its flag against revolutionary violence and guilt. The Undersigned cannot understand how the Captains alluded to can claim the benefit of the good faith and ignorance invoked in their behalf by the Honourable Minister of The United States in Lima, confronted by the facts set forth by the charter parties themselves, under which they were acting when captured. It is a remarkable circumstance that while the pretended permits, granted by the pseudo Commander of the Navy, Don Felipe Rivas, under which the captains would now take refuge, merely authorize them "to proceed south, to take in guano,"



Insomuch as the possession, *de facto*, by the insurrectionists and their pretended authorities, is concerned, it must be said that from the first outbreak of the revolution organized by Vivanco up to the present hour, this leader has had under his command, or in his favour, no portion of the territory of the Republic, with the exception of the city of Arequipa; for while the actual presence of his armed forces continued, and at the time when the arrest of the vessels took place, Vivanco was besieged by the national forces in Arequipa, and confined to that point, without more authority, of any real character, than that which he exercised within its very narrow limits. It is true that the sometime national frigate, the *Apurimac*, whose officers at the outset declared in favour of Vivanco, not having returned, with the other vessels that had also mutinied in the commencement, to its allegiance to the Government—although its decree had immediately declared her to be a pirate—went cruising about the coast with the pretended naval commander on board, bombarding the towns, depredating, stealing, and selling the guano belonging to the nation, granting fraudulent permits for its excavation and shipping, and protecting the vessels then loading in its robbery. This is the exact history of the facts, and no one knows it better than the Honourable Mr. Clay; the history of the ostensible authority, and of the *de facto* possession, on which his Excellency now relies to protect the Captains in the premises. The only occupation of this piratical frigate, and of its floating and itinerant authorities, which it conveys from point to point, is notoriously that of robbing and of authorizing and protecting robbery. When they were in Iquique, they there put forth their phantom of a Government, and there exercised a temporary jurisdiction of pirates over "Punta de Lobos," "Pabellon de Pica," and other adjacent points. And it is noteworthy that long before the events under examination all communication had ceased, indeed all relation between Vivanco, Iquique, and *Apurimac*, its officers, and the authorities, which it conveys about, or those that are countenanced by their presence, being the only shadow of a *de facto* Government that existed in those parts. Moreover, it is highly important to remark that neither Vivanco nor his Government has, through any public decree, or act of any kind, pretended to repeal the decrees and regulations adduced, all prohibiting the exportation to foreign parts of guano taken from the hereinbefore mentioned deposits; so that, besides the fact that neither he nor his intrusive authorities are recognized by the Peruvian nation or by the Government of the Union, the pretended licence signed by Vivas commands neither the authority nor the sanction of the so-called revolutionary Government, forasmuch as it may consider itself established *de facto*. Indeed, it is strange that the Honourable

Mr. Clay should maintain with so much energy the idea that there existed at "Punta de Lobos" and "Pabellon de Pica" an established *de facto* Government holding those points, when a national vessel of so little tonnage as the *Tumbes* could, without resistance, take possession of the vessels that were found there and thus assert and maintain the jurisdiction of the lawful Government, and if, as supposed by the Minister, the possession *de facto* be the only criterion of jurisdiction for putting to effect the fiscal and Custom-House laws, through means of a seizure, how, then, could a possession thus affirmed and realized *de facto* through the capture, by the *Tumbes*, of the vessels in question, fail to be considered, in point of law, as a just and lawful ground for the seizure that was made? Surely it will not be maintained that the fact of holding the *de jure* jurisdiction lessened the effect of the possession *de facto* of the *Tumbes*, nor yet that the presence of a few insurrectionary soldiers on shore, or at the points mentioned, could deprive the lawful Government of the right of exercising in the port that lawful jurisdiction of which it was deprived on shore, merely through the violence of an illegal power. When we speak of a *de facto* authority we are bound to show that it actually exists. Whenever, at any point, it lacks force to sustain itself, from that moment its existence ceases there.

In view of what precedes, and of the powerful reasons adduced by his Excellency the Minister of Foreign Affairs of Peru, in his correspondence on the subject with the Minister of The United States, the Undersigned flatters himself that proof is made out of the perfect right under which his Government acted in the controverted cases, and of its entire adherence to international laws, to the Treaties of 1851 between the two nations, and to the respect which



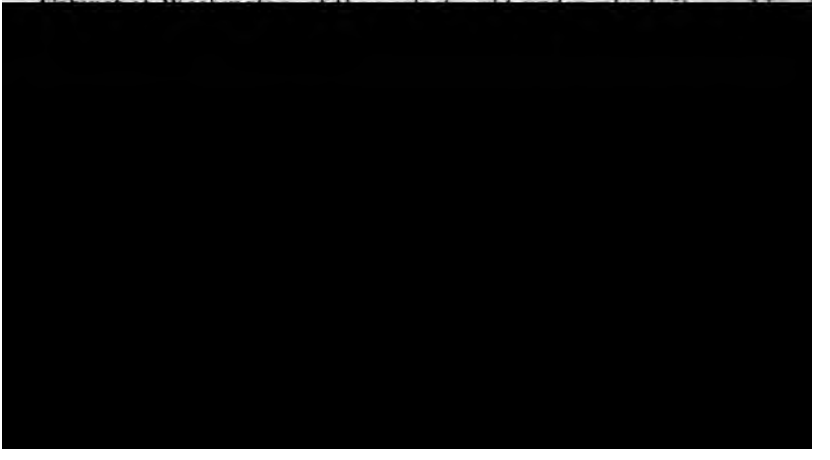
be robbery. In his Excellency's view, a mere blank is the guilty complicity of the parties with the pirates of the *Apurimac*, in plundering the public treasury, and thus supplying rebellion with more effective means of shedding blood and resisting the lawful authorities of the country. Engaged as they were in such undertakings, they certainly had no right to expect either favour or consideration. To rob the nation forcibly of its property or under the protection of lawless violence, cannot be less than a very serious crime in itself, because it is at the same time a violation of the revenue laws. On the contrary, if there be any distinction at all, on that account it lies in the circumstance that the greater crime absorbs the less, and imparts its own character to the act.

His Excellency likewise forgets that, as he himself has alleged, the points where the arrests were made were garrisoned by some forces of the insurrectionists, and that the piratical frigate *Apurimac*, with forces superior to those of the *Tumbes*, was not far distant, its principal occupation being that of visiting and protecting those points. Under such circumstances, there was neither time nor room for considerations and condescensions in regard of persons engaged in criminal acts, the breaking up of which was the object of the visit made by the *Tumbes*. Nor was there time for delays; and if, in the manner in which the vessels were taken and sent to Callao, there was something of haste or violence, surely the blame must fall back on the wrong-doers who, by their conduct, created a necessity for forcible measures. The Undersigned omits comments on the observations of the Minister of The United States on the injustice, illegality, and cruelty which would have attended the destruction of the vessels and abandonment of their crews, as it is said the commander of the *Tumbes* threatened his intention to do. The vessels were not destroyed, and the fact is sufficient to preclude resort to possibilities. If a portion of the crews was left at the points where they were found with the vessels, the fact grew out of the sheer necessities of the case. The commander of the *Tumbes* found 5 essels of great burden. He could not leave their crews aboard, ecause, together with the labourers that were collected with them, hey might have proved too numerous for the safety of the prizes. 'or the same reason he could not take them on board of the *Tumbes*. here was, therefore, no other resort than that of leaving them t the smaller boats, all sufficient to take them whithersoever they ight choose to go; and, as a proof of that sufficiency, four days terwards, and in their boats, they reached Arica, where they were sisted by the Prefect with an allowance of 50 cents a day, made each in ividual, and whence they were forwarded to Callao, in ich port, receiving a like allowance, they remained waiting the sult of the trial which had been instituted. At the points where

they were originally left, they had the resources common to the insurrectionary forces there stationed—sufficient, at all events, to repel the accusation of cruelty, which has been brought forward against their abandonment. The Captains went to Callao, under parole, in their own vessels, and were sent to jail on their arrival. All the usual forms of law were adhered to in their case, in conformity with the enactments and usages of the land, with this favourable exception, however, that they, were released under bond, after 3 days' attention—an act of courtesy and consideration on the part of the Government, at the request of the Minister of The United States, without, therefore, renouncing the perfect right, upon which it had stood from the beginning, in all the proceedings relative to the case. The Undersigned flatters himself that this manifestation of the cordial goodwill which animates his Government will not be the less appreciated in view of the singular and, to this hour, unexplained conduct (difficult to be explained) of Mr. Miles, The United States' Consul in Callao, who had the boldness, as appears from a communication of the collector at Callao, to introduce himself, without previous permission, into the place where the Captain and the mate of the *Georgiana* were officially to take their declarations, thus exercising a jurisdiction which, he could not but be aware, belonged exclusively to the courts of the Republic. The Undersigned will probably find himself under the obligation of formally bringing this serious proceeding of the Consul to the Honourable Mr. Cass's consideration.

Meanwhile, regretting the inevitable length of this note, he will no further delay its conclusion.

The Undersigned ardently desires to have it in his power, as soon as possible, to communicate to his Government the recognition, by the



The United States' Secretary of State for Foreign Affairs to the Peruvian Minister at Washington.

SIR, *Washington, May* 22, 1858.

I HAVE received your note of March 27, and have submitted it to the President for his consideration, and I am charged by him to make known to you his views of the subject you have presented.

While the confidence you have been instructed by your Government to express in the moderation and equity of the Government of The United States has been highly gratifying to the President, he regrets that it has been accompanied by an expression of dissatisfaction with Mr. Clay, the Minister of The United States at Lima, for the manner in which he discharged his duties under the unpleasant circumstances in which he was placed by the necessity of urging on the Government of Peru just reparation for injuries committed against the persons and property of his countrymen. If Mr. Clay has rendered himself justly obnoxious to the charge of a want of impartiality and of friendly disposition in his proceedings, he has failed to represent the sentiments of his Government, and has adopted a course which it does not approve. The United States cherish the most friendly feelings towards the Peruvian people and their Government, and take much interest in the advancement of their beautiful country in all the elements of improvement.

I have carefully examined the correspondence between Mr. Clay and the Secretary of State of Peru, and appreciate his position and the zeal and ability he displayed, without, however, adopting all his conclusions. His interposition became necessary in vindication of the rights of his country, which, in his opinion, had been violated, and in that opinion his Government concurs with him. The evidence which has been collected is in some particulars contradictory, but it shows very clearly that serious violations of the rights of The United States had taken place, and I do not perceive that the views taken by Mr. Clay can properly subject him to the complaint of partiality or of ill feeling.

I am confident he knew too well what was due to his own position and to the sentiments of this Government to offer any intentional offence to the friendly Government of Peru. I perceive, on reviewing the correspondence, that there are some indications of excited feeling on both sides, and some expressions indulged that had better been avoided. But I content myself with this reference, without a desire to pass any further judgment on it.

I beg leave also to assure you that any representations you may be instructed to make against Mr. Miles, the American Consul at Callao, will be received without hesitation, and the facts investigated with a view to mark his conduct with the disapprobation of

the Government, should it be found that he has failed in proper respect to the Government of Peru, or discharged his duties in an improper manner.

There are three subjects of complaint presented by Mr. Clay to the Government of Peru. These are, the boarding and detention of the American vessel the *Dorcas C. Yeaton* by the Peruvian armed steamer the *Tumbes*, and the capture of two other American vessels, the *Georgia* and the *Lizzie Thompson*, by the same national cruizer.

The course pursued by your Government in offering an adequate compensation for the interruption of the voyage of the *Dorcas C. Yeaton*, and its acceptance by the Captain in satisfaction of the injury, has withdrawn the question of damages on account of that occurrence from the existing controversy; but the boarding of the *Dorcas C. Yeaton* by the Peruvian vessel-of-war presents very grave considerations for the interposition of this Government. The American vessel was sailing upon the high seas, under the flag of her country, when she was approached by the Peruvian vessel-of-war, which, to adopt the expression used by you, "made the usual signal for her to heave to," or, in other words, fired a gun to indicate to the unarmed ship that she must stop and await the pleasure of the armed one.

Before proceeding to examine the facts, it is necessary to lay down the principle of immunity which protects the vessels of every independent power upon the ocean from search or seizure by another power. In a recent correspondence with Lord Napier, the Minister of Her Britannic Majesty to The United States, I had occasion to investigate this subject, and to make known the views of The United States in relation to it, and their determination not to submit to the detention and search of their vessels in time of peace under any pretext whatever. I take the liberty of enclosing, for your information, a copy of the public documents containing that letter, and inviting your attention to the marked paragraphs, explanatory of the position assumed by this Government, and which is applicable to the vessels of The United States in every sea where they may penetrate.

You will perceive that the only exception to the entire immunity of their vessels which is admitted by this Government is the acknowledged right of belligerents to enter a neutral merchant vessel in time of war to ascertain her true character, and whether she has contraband articles of war on board.

Whether the civil war which was recently prevailing in Peru, and is now happily terminated, gave to the contending parties, reciprocally, the rights of belligerents, so far as regards the other powers of the world, which you deny, is a subject into which I need

not enter, as you explicitly state, that the proceeding in relation to the *Dorcas C. Yeaton* had no reference to any such pretension.

One remark, however, in relation to this branch of the subject seems called for in consequence of the allusion you have twice made in your letter to the views presented by Mr. Clay, concerning the situation of Peru at the time of the aggression complained of; views which you consider incorrect and inconsistent, and which you are pleased to characterize as "remarkable." I cannot concur with you in your censure of the position taken by Mr. Clay, but, on the contrary, consider it entirely justified by the circumstances. You object that Mr. Clay "lays down the *gravamen*, as it were, of the offence attributed to Commander Dueñas in attempting to visit a vessel of The United States on the high seas, in a time of profound peace," &c., while at the same time that Minister "by his own argument declares that Peru is in a state of civil war." I do not consider the views presented by Mr. Clay justly liable to the objections you urge. Peru, so far as respects the effect of its political condition upon its intercourse with other powers, was in a state of peace. Neither of the parties contending for the government of the Republic claimed any of the rights of a belligerent, connected with that intercourse, so that the foreign relations of the country were undisturbed by its internal commotions. No blockade was proclaimed, nor were foreign vessels pronounced to be neutrals, and subject to search and seizure for the reasons recognized by the laws of nations, conditions which bring with them the partial interruptions to which foreign commerce in periods of public war is exposed. On the contrary, you maintain in your letter to me that the state of things in Peru brought with it no belligerent rights; that in fact there was no civil war, but a rebellion merely against the lawful Government. I shall not undertake to settle any general principle by which the true character of an insurrectionary movement in a country may be tested, and under what circumstances it becomes a contest for a change of the government, giving to it the attributes, together with the just consequences of a civil war. It is sufficient to say that the situation of the contending parties in Peru, and the avowed objects of the insurrectionary leaders, together with the extent of their operations, and also the extent and importance of the portion of the Republic which they occupied and governed at different periods of the struggle, made that contest a civil war. And it was accompanied, so far as respects the intercourse of other powers with Peru, with all the rights which belong to that condition, and which either of the parties was disposed to claim and exercise in conformity with the recognized principles of the law of nations.

While informing me that you deem it unnecessary "to discuss

or put forward the right of visitation," you remark that in a conversation you had with me, I stated "there were cases in which a national vessel might be justified in visiting a merchant vessel on the high seas, and that the Government of The United States would not in such cases make a formal reclamation," and that I had put a case illustrative of this position applicable to the circumstances of the *Tumbes*.

I regret that my views of this subject should have been misconceived upon the occasion to which you refer. Whether the error is to be attributed to their being imperfectly expressed, or imperfectly understood, I am unable to say; but I am sure you desire to ascribe to me precisely the opinion you supposed I entertained. But by adverting to the extracts of the letter to Lord Napier, which accompany this communication, you will perceive at once that I do not occupy the position you assign to me. I claim a total immunity for the vessels of The United States "upon the common and unappropriated parts of the ocean," to use the expression of Lord Stowell, in time of peace, under all circumstances. There is no case in which a forcible entrance into them can be justified by another power. That is, there is no case in which such entry is a lawful act. It may be an excusable one under peculiar circumstances, of entrance and of conduct, which might well induce the aggrieved party to renounce all claim for reparation; as, for instance, if a piratical vessel were known to be cruizing in certain latitudes, and a national armed ship should fall in with a vessel sailing in those regions, and answering the description given of the pirate, the visitation of a peaceable merchantman in such a case, with a view to ascertain her true character, would give no reasonable cause of offence to the nation to which she might belong, and whose flag she carried.

But if I understand correctly the position you take in behalf of your Government respecting the detention of the *Dorcas O. Fenton*, it is unnecessary for me to discuss the general question of the claim of visitation, except to express the dissent of The United States from the principles in relation to it which you have laid down. That being done, I have to observe that the question of private injury having been removed by the action of Peru, if the entrance into the American vessel were a peaceable one, without violence or menace, The United States have no demand to make of the Government of your country, either in satisfaction of the act or for the punishment of the officer by whose orders it was committed. There is conflicting testimony as to the precise circumstances which occurred, but there is no version of them which attributes any offensive character to the transaction. Assuming, therefore, that such are the views of your Government, and the use of force on

his occasion being denied and disavowed on its behalf, The United States have no longer any cause of complaint against the Government of Peru for this detention of one of their vessels.

But while I am gratified at being able to give you this assurance, I think it proper to remark, that the circumstance of this occurence, independent of the statement of the persons present, may well have led Mr. Clay to believe that the entrance into the American vessel was not altogether a peaceable one.

The Peruvian armed steamer was sailing upon the high seas with the purpose, as you avow, of preventing the vessels of other Powers from resorting to the guano deposits. It is not denied that Peru has the right to exercise due vigilance in enforcing her revenue laws within a reasonable distance of her shores, but this should be done by a preventive service, stationed in the neighbourhood of the place where a contraband trade is anticipated, and not by vessels traversing the high seas, exercising an arbitrary jurisdiction over the commerce of other Powers, and exposing it to vexatious interruptions and injuries. And the measure of keeping an armed steamer upon the ocean for this purpose is liable to another objection, not less decisive as to its condemnation. The *Tumbes* belonged to the Government, against which the revolutionary party was contending, and was acting under its orders. Those orders were to intercept by force all commercial communications with various places in the possession and under the jurisdiction of the adverse party. The United States deny the right of interference in such cases, for reasons which will be more fully developed in the observations I shall present respecting the capture of two other American vessels, the *Lizzie Thompson* and the *Georgiana*. The orders and destination of the steamer necessarily led to the opinion that force was to be used in the accomplishment of the object of her cruize, and thus the statements made to the American Consul upon this point were the more readily credited, and especially when taken in connexion with the arrangement, just and proper, indeed which was made for the satisfaction of the owners. The large sum of 9,600 dollars voluntarily offered by the commander of the *Tumbes* for the short detention of a few hours of the American vessel, not unnaturally, however unjustly, may have induced the opinion that the Peruvian officer felt that he had committed a grave error, which might have serious consequences, unless atoned for by a mutually satisfactory arrangement. Had no force been used or threatened, there was no error to correct. Nor is this consideration weakened by one of the reasons given by you for the liberal offer of the Peruvian officer, that a prosecution of a voyage to the guano deposits might involve the owners of the vessel in fatal consequences. A motive of action in the disposal of public funds to foreigners, to

prevent them from engaging in what was considered an illegal traffic, scarcely reconcileable with the condition of the parties.

The capture of the *Lizzie Thompson* and of the *Georgiana*, two American vessels, furnishes another subject of complaint, and The United States confidently appeal to the justice of the Government of Peru for such satisfaction as this violent and unjust seizure demands, and as is due to the amicable relations subsisting between the two countries. The facts lie within a narrow compass, and in their main features are indisputable. These vessels, whose capture and the harsh treatment of whose crews form the subject of this reclamation, were owned by American citizens, and left The United States with regular clearances; one, the *Georgiana*, for Valparaiso, in Chile, and the other, the *Lizzie Thompson*, for Iquique, in Peru. Arrived at their ports of destination, they disposed of their respective cargoes, barley and lumber; but the *Georgiana* was required by the consignees to deliver her freight at Iquique, or at another place in Peru called Mala. When they reached Iquique the captains found a civil war raging in the country, where, indeed, it had existed for almost two years, one of the contending parties seeking to retain possession of the Government, and the other to obtain it by force. This movement had been going on with varied success, and during its progress, as stated by Mr. Clay, and not disputed, the insurrectionary party got possession of some of the important ports of Peru, and, while holding them, they exercised all the functions of Government, as well those relating to external as to internal concerns. Vessels were cleared, and all the necessary acts performed which were required by the operations of commercial intercourse. These ports extended almost from the southern to the northern boundary of the country. Among others thus occupied by the insurrectionists were the port of Iquique, and also two small places Punta de Lobos and Pabellon de Pica, in its vicinity, all of which were in their possession when the two American vessels arrived at Iquique, and sought employment. The Custom-House was open, and the officers appertaining to it in the regular discharge of their duties, and the necessary papers for the entrance and clearance of vessels were readily granted. The revolutionary party had full possession of the government at the points indicated. The true bearing of this fact is not weakened, as you suppose, by calling the military detachments maintaining possession at the two small points "a few insurrectionary soldiers," because if they were sufficiently numerous, as they undoubtedly were, to effect the object, the number actually employed in the service becomes a question of no importance, and in a subsequent part of your note you admit that these places "were garrisoned by some forces of the insurrectionists," &c.

Under these circumstances, the usual commercial relations between Peru and The United States were continued, and the vessels of the former resorted to the ports of the latter, carrying freight and seeking employment as before. In doing so, and while conforming to the regulations and submitting to the authorities they found established there, are they liable to seizure and condemnation and their crews to punishment by the adverse party? The United States maintain they are not, and that no such principle has been recognized during the civil wars which have recently been so prevalent in various countries. On the contrary, commerce has been often carried on without regard to these internal contests, and the established functionaries at the various ports of entrance have exercised all necessary authority. The pretension advanced by your Government, which would render all these proceedings liable to be declared void, cannot be successfully maintained. If recognized, it would expose foreign commerce to the most oppressive exactions and interruptions. It would enable either party, acquiring possession of a place, to disregard all the official acts which had been done by its opponents while occupying it, and enforce the repayment of all public charges, though previously fully satisfied, together with the forfeiture of vessels and the punishment of their crews.

You claim for the Government at Lima, during the existence of the contest, authority over the whole country, and the duty of obedience from every person residing in it, whether citizen or stranger. A similar claim is very often put forward, in cases of civil commotion, and is not seldom urged at the same time by both parties. It cannot be admitted where a civil war is raging, and that, in the opinion of this Government, was the condition of Peru—a condition which conferred upon *de facto* rulers the right to govern such portions of the country as they were able to reduce to their possession. It is the duty of foreigners to avoid all interference under such circumstances, and to submit to the power which exercises jurisdiction over the places where they resort, and while thus acting they have a right to claim protection, and also to be exempted from all vexatious interruption when the ascendency of the parties is temporarily changed by the events of the contest. Undoubtedly, the considerations you urge respecting the true character of an armed opposition to a Government are entitled to much weight. There may be local insurrections, armed opposition to the laws, which carry with them none of the just consequences recognized by the law of nations as growing out of a state of civil war. No fixed principle can be established upon this subject, because much depends upon existing circumstances. Cases, as they arise, must be determined by the facts which they present, and the avowed objects of the parties, their relative strength, the progress

they respectively make, and the extent of the movement, as well as other circumstances must be taken into view. While you do not deny that there may be civil wars, carrying with them the consequences to which I have referred, you consider the contest in Peru, comparatively an unimportant movement, an insurrection indeed, entitled to no such distinction. I do not concur in this view, nor does it appear to have been always concurred in by the Government you represent. Mr. Clay appeals to some of the proceedings of the Government at Lima, in proof of its recognition of the character of the contest; and certainly the negotiation with the military and naval officers at Arica, belonging to the revolutionary party, by the direction of that Government, and for their submission to its authority, indicates very clearly the opinions of both parties, asserted, indeed, in the official documents that a civil war was prevailing in the country. The propositions made by the chiefs of the revolutionary party upon that occasion maintained that of "their own free and spontaneous will" they have manifested to the Government Commissioners "their desire to put an end to the civil war which afflicts the Republic, which they might prolong with the elements they possess," and offer the terms upon which they will submit. These terms were unconditionally accepted by the Commissioners and were approved and ratified by the Council of Ministers, and thus was the state of civil war fully recognized.

Besides your estimate of the partial nature of the movement, which, in your opinion, divests it of the true character of a civil war, if I understand your position, you consider some act of a foreign Government recognizing the existence of such a war to be necessary before its citizens can claim the protection which The United States demand for their own.

I must express my dissent from this position, at least in its ge-

in the formal recognition of a portion of an empire seeking to establish its independence, which, in fact, does not so much admit its existence as it announces its result, at least so far as regards the nation thus proclaiming its decision. But that is the case of the admission of a new member into the family of nations. Such is not the condition of Peru. She had already attained that position, and her intestine difficulties arose out of an effort to change the administration of the Government, which was a matter of purely domestic concern, not touching foreign Powers, unless in the progress of the contest their interests were brought into question. So long, therefore, as such a contest preserves its domestic character there is no necessity for external interposition, unless, indeed, there be a determination to take part with, and aid one of the parties by the direct application of force or by the exertion of political influence. Such has not been the policy of The United States, and they carefully abstain from all interference with the troubles in Peru, content to abide the decision which its people might make; and this Government permitted the diplomatic intercourse of the two countries to continue unchanged, as a measure demanded by their mutual interests and not as an acknowledgment of the pretensions of either of the rival parties. It is therefore unnecessary to advert to the effect of a formal recognition by the executive, and how far that act of political power would be obligatory upon the courts of justice and binding upon the rights of individuals. Whether a civil war was prevailing in Peru is a question of fact to be judged by the proofs, as the existence of a war between two independent nations is a similar question, to be determined in the same manner where—as is often the case, at least in this country—there is no public authoritative recognition of it. Foreigners in Peru were subject to the local jurisdiction and bound to submit to it, and while so submitting they were entitled to protection and not justly liable to be called in question for such obedience upon any change of authority consequent upon the progress of military events.

You will perceive by this view that the importance you attach to the fact that the American captains could not be ignorant of the true state of things in Peru, a fact in which you find a justification for the proceedings that took place affecting them, becomes a subject of no importance whatever. Ignorant or informed of the situation of Peru, their rights and duties were precisely the same. They had a right to enter any port of the Republic open to foreign commerce, and not blockaded, for the prosecution of their commercial enterprises; and it was their duty, after such entrance, to obey the authorities they might find established there. And the same principle which is applicable to the jurisdiction of a *de facto* government over persons applies with equal force to questions of

internal administration touching the public revenue. These are subjects which follow the possession of the powers of Government. The views, therefore, which you present at some length of the laws of Peru, providing for the regulation of the trade in guano, and prescribing penalties for their violation, have no practical connexion with the case of these two American vessels. The true construction of these regulations, their repeal or suspension, or modification or application, are questions of administration to be determined by the existing administrative power, to whose decision foreigners must submit. When the revenue officers at Iquique, acting under the authority of the *de facto* Government, gave the necessary permission for the purchase of guano at the places indicated, then subject to the authority of that Government, the American captains had the right to repair thither, and to take that article on board their vessels for freight, in conformity with the provisions of their charter parties. And the transfer of the possession of these places while the vessels were engaged in this employment, could justly work no forfeiture for acts previously done under these circumstances, nor subject the officers or crew to punishment. The United States recognize no pretension to such interference, but hold on to the stipulations of their Treaty with Peru, which guarantees protection to their citizens without regard to whatever changes, violent or peaceable, may take place in the government of that country.

Connected with this branch of the subject, you inquire how it happens "if possession *de facto* be the criterion of jurisdiction for the enforcement of fiscal or Custom-House laws (for all authority you might have added), that the possession affirmed and realised *de facto* through the capture by the *Tumbes* of the vessels in question failed to be considered in point of law as a just and lawful ground for the seizure that was made?"

This question admits of a satisfactory answer and a brief one. While contending parties are carrying on a civil war, those portions of the country in the possession of either of them, become subject to its jurisdiction, and persons residing there owe to it temporary obedience. But when such possession is changed by the events of the war, and the other party expel its opponents, the occupation it acquires carries with it legitimate authority, and the right to assume and exercise the functions of the Government. But it carries with it no right, so far at any rate as foreigners are concerned, to give a retroactive effect to its measures, and expose them to penalties and punishments, and their property to forfeiture for acts which were lawful, and approved by the existing Government when done. If the Government at Lima had taken forcible possession of the places where the two American vessels were at anchor, and had established its authority, it would then have been entitled to demand that

uch authority should be recognized and obeyed, and to enforce it, f necessary, so far as might regard all transactions occurring during uch occupation without, however, affecting existing rights. The rinciple is clear, but it does not appear that the circumstances alled for its application. No possession of any portion of the ountry in question seems to have been taken by the *Tumbes*. It is dmitted, indeed, that that vessel exercised no jurisdiction "on hore." She sailed into the small ports "garrisoned" by the other arty, and in the absence of its two armed vessels, and made "capure" and "seizure" of the American vessels, and then, for aught hat appears, abandoned the position and left the adverse jurisdicion as she found it. This is no rightful proceeding under any ircumstances attending a civil war, and still less under the circumtances in which it took place.

The cutting out of these vessels resembles a piratical enterprise, ather than the exertion of a legitimate power against the property of friendly nation under the authority of an established Government.

Upon a full consideration of the subject, the President indulges he confident expectation that the Government of Peru, on reviewng the circumstances, will not hesitate to make such compensation or the capture of the *Georgiana* and of the *Lizzie Thompson*, and or the injuries to the captains and the crews as these violent transctions call for.

There is another incident connected with these occurrences to hich I invite your attention.

Mr. Clay has complained of the conduct of the commander of ie *Tumbes* for a want of humanity, in his treatment of the crews of ie two captured American vessels. This charge you regard as ununded, and the course pursued upon that occasion as just and umane. I have no disposition to continue the discussion of this int of a controversy already sufficiently extended, but the indoubible nature of the transaction, not less than justice to Mr. Clay, uires that I should make known to you the disapprobation of Government of an act of cruelty towards a number of its rotected citizens, committed by the Peruvian officer, without excuse under the circumstances. The crews of the vessels were state of utter destitution, reduced to that condition by forcible ulsion from their own vessels, and were compelled to leave in boats, badly equipped for the purpose, and without provisions ater, and some 40 or 50 miles, as Mr. Clay states, from any where these indispensable articles could be procured. I am the enlightened Government of Peru would condemn the uct of the Captain of the *Tumbes* were all the facts of the case ctly before it. In a declared war, persons thus captured in prosecution of hostilities would rarely be subjected to such

treatment, and never without the serious responsibility of the Government permitting or justifying the measure. But these unfortunate men were the citizens of a friendly Republic, engaged in peaceable commerce, and had done no act justly exposing them to capture or to punishment. The United States have a right to expect the Government of Peru will mark with its displeasure the conduct of its officer upon that occasion.

'I have requested from the Attorney-General his opinion upon some of the questions involved in the discussion between our respective Governments, and I inclose, for your information, a copy of the communication I have received from that officer in answer to my application. His views meet the concurrence of the President.

I avail, &c.

Don J. Y. de Osma. LEWIS CASS.

(*Inclosure.*)—*The United States' Attorney-General to The United States' Secretary of State.*

SIR, *Attorney-General's Office, May* 15, 1858.

THE questions you have submitted relative to the seizure of the American vessels *Georgiana* and *Lizzie Thompson*, by the Peruvian war steamer *Tumbes*, on the coast of that country, have had my consideration.

The two American vessels were engaged in lawful trade without any intention on the part of masters, owners, or other persons, to do injury to the Peruvian Government, or to violate any law which they might find to be in force for the regulation of commerce in that part of the world. They both went into the port of Iquique, and there, after discharging the cargoes with which they were laden, they procured a regular clearance and licence at the Custom-House to load with guano at certain points on the coast where that article is found. While they were engaged in taking in their cargoes of guano, agreeably to the licence so obtained, they were forcibly seized by the Peruvian steamer, the persons on board were imprisoned, and the vessels carried into Callao, under a charge of being engaged in contraband trade.

Neither the Commander of the *Tumbes* nor the Government which he served has attempted to vindicate the justice or legality of these proceedings on the ground that the clearence and licence under which the Americans acted were unlawful in form or substance. It is not pretended that the authority given on the face of the licence was insufficient to cover the acts of the persons who had it. The whole objection to the papers is founded on the fact that the acting Governor of Iquique, and the collector, who was in possession of the Custom-House, held their offices, not under the authority of the supreme Government of Peru, but by appoint-

ment from Vivanco, a revolutionary Chief, who had taken arms against it. But at the date of the licence, this so-called revolutionary party had full possession of this port of Iquique, of the guano deposits, and of the whole country southward to the Bolivian line. When the Americans went there they found a Government organized, and its officers performing the functions which pertained to the execution of the local laws. If there was any other power in existence strong enough to dictate the law at Iquique it was not exercised, nor did the foreigners at Iquique receive even a notice that it would ever be exercised in the future. Under these circumstances, could the Peruvian Government justly or lawfully treat the American vessels as violators of their law?

When a portion of the territory of one nation is taken possession of by the forces of another with which it is at war, the conquering party has an undoubted right to declare the law of the place as long as his occupation of it continues, and all the rights of the previous Sovereign are suspended until the possession is resumed. The Island of Santa Cruz, then recently captured by the British forces, was in their temporary occupation during our last war with that country. We held it to be a colony of our enemy, and for that reason our courts declared that a cargo of sugar shipped from there was a lawful prize of an American privateer who had captured it.—(9 Cranch, 191.) We conceded the same rule when it operated against us. The port of Castine was taken by the British in 1814, and it was decided that our revenue laws did not apply to it any more than to a foreign country.—(4 Wheat. 246; Gullison's Rep. 501.) Indeed, nothing can be clearer than that the conquest of a country, or portion of a country, by a public enemy entitles such enemy to the Sovereignty and gives him civil dominion as long as he retains his military possession. The inhabitants who remain and submit, and strangers who go there during the occupation of the enemy, must take the law from him as the ruler *de facto*, and not from the Government *de jure*, which has been expelled. It is equally well settled that, when the former Government resumes its possession of the territory, whether by force or under a Treaty, it cannot call the citizens or subjects of a third nation to account for obeying the authority which was temporarily supreme, during the enemy's occupation of the place. The *jus post liminii* has no sort of application to such a case.

It may be supposed that these principles refer only to a lawful war carried on between two separate and independent nations. But we shall see, I think, upon further examination, that they apply with equal force to a conflict like that in which Peru has been engaged.

When the people of a Republic are divided into two hostile parties, who take up arms and oppose one another by military

force, this is civil war. The fact that civil war exists does not depend in the least on the cause of the dispute. No foreign nation has a right to interfere between the parties, nor to judge the merits of the quarrel, unless with the purpose of making war upon one or the other. They have appealed to the sword and the sword must decide it; other powers are bound to observe a strict and impartial neutrality. If the party which opposes the previously established Government shall succeed in overthrowing it entirely, and gets possession of the whole country, nobody can be perverse enough to deny that in such a case the new Government is Sovereign and authorized to dictate the law which shall prevail. Supposing, however, that the rebellion is but partially successful and the old Government maintains itself in one part of its territory, whilst it is obliged to surrender another, shall it then give law where it has no power to enforce obedience, or shall its authority be confined to the territory which it occupies? The answer to this question is not doubtful; a revolutionary party, like a foreign belligerent power, is supreme over the country it conquers, as far and as long as its arms can carry and maintain it.

Vattel (Book III, ch. 18, sec. 295) says, what all writers on the subject assent to, that the two parties to a civil war are to be regarded, for the time, as distinct political societies, and stand in the same predicament as two belligerent nations. They are entitled, one as much as the other, to the respect of foreigners who deal with them, or meet them on sea or land. They can each of them claim the same rights of asylum, hospitality, and intercourse with other nations.—(3 Wheaton, 643.) The captures made by both give titles to the prizes which their respective ships lawfully commissioned may take.—(7 Wheaton, 337.) Each of them is deemed by us to be a belligerent nation, having, so far as concerns us, the sovereign rights



promise their own neutrality or that of the flag under which they sailed. Keeping themselves within the limits of a trade lawful and fair in its character, they had a right to be protected when they obeyed the regulations which they found established and in force at the place. To give them this right it was not necessary that the Government of their own country should have previously known and recognized the existence of the civil war. I am not required, for any purpose of this case, to say how far a revolutionary party can carry on a war upon the ocean, and vex the commerce of the world upon its common highway. It has been doubted whether a mere body of rebellious men can thrust itself among the family of nations, and claim all the rights of a separate power on the high seas, without some sort of recognition from foreign Governments. But there is no authority even for a doubt about the right of the parties to a civil war to conduct it with all the incidents of lawful war, within the territory to which they both belong.

On the whole case, then, my opinion is that the following propositions cannot be controverted with any show of reason or authority.

1. At the time when the *Georgiana* and *Lizzie Thompson* went to Iquique a state of civil war existed in Peru.

2. At that time, one of the parties to that civil war, having expelled the other, had possession by conquest of the port of Iquique and the points where the guano was deposited.

3. Being so in possession, and having officered and organized the local Government of the port and the city and the guano deposits, the jurisdiction of the party headed by Vivanco was perfect, and an American vessel trading to the port was bound to conform to its decrees.

4. The *Georgiana* and *Lizzie Thompson* having obeyed the laws of the place then established, and having acted in pursuance of licences given by the officers in authority, were guilty of nothing for which the other party to the civil war could punish or molest them afterwards.

5. The laws and jurisdiction of the Peruvian Government were suspended at Iquique during the time that place was in possession of the domestic enemy, and its resumption of possession gave it no power to punish American citizens for a supposed violation of its laws while they were suspended; nor to make any new law which should have a retroactive effect.

6. The whole proceeding of the Peruvian Government against the vessels named was contrary to the law of nations and repugnant to the principles of natural justice.

I am, &c.

Hon. Lewis Cass. J. S. BLACK.

TREATY of Recognition, Peace and Amity between Spain and the Argentine Republic.—Signed at Madrid, July 9, 1859.

[Ratifications exchanged at Madrid, June 27, 1860.]

(Translation.)

HER Majesty the Queen of the Spains, Donna Isabel II, o the one part, and his Excellency the President of the Argentin Republic, on the other, being both animated with the desire securing, by a public and solemn act, the friendly relations whic from natural feeling, exist between the subjects and citizens of th two countries, have resolved to enter into a Treaty of Recognitio Peace, and Amity, founded on principles of justice and mutu convenience.

For this purpose Her Catholic Majesty has been pleased t appoint as her Plenipotentiary Don Saturnino Calderon Collante Knight Grand Cross of the Royal and distinguished Order Charles III., and of the Royal Order of Isabel the Catholi Senator of the Kingdom, and Her Principal Secretary of State f Foreign Affairs; and the President of the Argentine Republi Don Juan Baptista Alberdi, Envoy Extraordinary and Minist Plenipotentiary of the said Republic to the Courts of Paris an London, and appointed in the same character to Her Catholi Majesty; who having communicated to each other their full power and having found them in good and proper form, have agreed on th following Articles:

ART. I. Her Catholic Majesty recognizes the Argentine R public or Confederation as a free, Sovereign, and independe nation, composed of all the provinces mentioned in its Feder Constitution now in force, and of the other territories [redacted]

bonâ fide debts contracted amongst themselves, as also that the public authority shall place no obstacle in the way of the rights which they may allege by reason of matrimony, inheritance by will, or intestacy, or any other of the titles to inheritance recognized by the laws of the country in which the claim may be made.

IV. The Argentine Confederation, considering that since it acquires the rights and privileges of the Crown of Spain, so it also becomes liable for all its duties and obligations, and hereby solemnly recognizes, as a consolidated debt of the Republic, as much privileged as any other debt, in conformity with the established laws of all debts of any kind whatsoever contracted by the Spanish Government or its authorities in the old provinces of Spain, which constitute at present, or which may hereafter constitute, the territory of the Argentine Republic, evacuated by Spain, May 25, 1810.

The entries in the account books of the offices of the old Viceroyalty of Buenos Ayres, or in the special books of the provinces which constitute, or shall hereafter form, the Argentine Republic, as also the agreements and original certificates or legally authorized copies, and all the documents of whatsoever date they be, which serve as proofs in conformity with the universally received principles of law, shall be considered as vouchers of the debts, whenever they are signed by Spanish authorities resident in the country.

The verification of these debts shall take place on hearing the parties interested; and the sums admitted and certified as legally payable by this liquidation shall bear the corresponding legal interest, from one year after the exchange of the ratifications of the present Treaty, although the liquidation take place afterwards.

The amounts expended by the Government of Her Catholic Majesty, after the complete evacuation of the Argentine territory by the Spanish authorities, shall not form part of this debt.

V. Although the struggles and discord, happily terminated, were not obstinate or disastrous in the old Viceroyalty of Buenos Ayres, and it is to be presumed consequently that the sequestration and confiscation of property belonging to Spanish subjects, or to Argentine citizens, were of an insignificant nature, Her Catholic Majesty and the Argentine Republic, wishing to avoid doing any injury, solemnly engage to return immediately to the former owners, or to their heirs or legitimate representatives, but without giving them the right to claim anything on account of what the confiscated property might or ought to have produced during its sequestration or confiscation, all moveables and immoveable property, jewellery, money, or other effects of any kind whatever, which may have been sequestrated or confiscated from Spanish subjects or citizens of the Argentine Republic, during or after the war carried on in America,

and which may still be in the hands of the respective Government in whose name the sequestration or confiscation was made.

The injury or improvement caused to such property by time o by chance during the sequestration or confiscation cannot b reclaimed by either party; but the former owners and their repre sentatives must pay the respective Governments for all suc improvements made by man's hand, in the property and effect since the sequestration or confiscation, as also the said Governmen must pay for all the injury caused by the same means during th said period. And these payments shall be made in good faith, an without judicial contention, on the opinion of arbitrators or expe rienced persons named by the parties interested, and a third perso chosen by them, in case of disagreement.

Those creditors to whom this Article refers, whose propert shall have been sold or alienated in any way, shall be fully indem nified in the following manner, either in first class paper of th consolidated debt, the interest of which shall commence at th expiration of one year after the exchange of the ratifications of th present Treaty, or in State lands, as they may prefer.

If the indemnity be made in paper, the respective Governmen shall give to the person interested a letter of credit on the Stat which shall bear interest from the date fixed in the foregoing para graph, although the document may be given subsequently; if it b made in national property after the year following the exchang of the ratifications, a further quantity of land, calculated to be o the value of the revenue which the first lot would have produce had it been granted during the year following the said exchange shall be added to the value of the land given as an indemnity for th lost property, so that when the indemnification takes place it shal be complete and effective.

After the expiration of the said 4 years no fresh reclamations of this kind shall be admitted under any pretext whatsoever.

VII. In order to establish and consolidate the union which ought to exist between the two nations, both Contracting Parties agree that in order to decide the nationality of Spaniards and Argentines, the rules laid down in Article I of the political Constitution of the Spanish monarchy and in the Argentine Law of October 7, 1857, shall be observed.

Those Spaniards who may have resided in the Argentine Republic and have adopted its nationality, may recover their own if they choose, and for this purpose a delay of one year is granted to those present and two for those absent.

At the expiration of this term it shall be understood that the nationality of the Republic is definitively adopted.

The simple inscription in the register to be kept at the Legations and Consulates of each State shall suffice to determine the respective nationality.

The principles and conditions established in this Article shall be also applicable to Argentine citizens and their children in the Spanish dominions.

VIII. The subjects of Her Catholic Majesty in the Argentine Republic and the citizens of the Republic in Spain shall exercise freely their business and professions, possess, buy and sell wholesale and retail, all kinds of goods and movable and immovable property, take their whole property out of the country, dispose of it during life or at their death, and succeed to such property by will or through intestacy, all in conformity with the laws of the country, in the same manner and under the same conditions and obligations as those in force or which shall hereafter be in force for the most favoured nation.

IX. Spanish subjects in the Argentine Confederation and citizens of that Republic in Spain, shall not be subject to serve in the army, navy, or militia. They shall also be exempt from all extraordinary taxes, or contributions, or forced loans; and they shall be treated as subjects or citizens of the most favoured nation in the ordinary taxes which they pay on account of their business, commerce, or property.

X. Until Her Catholic Majesty and the Argentine Republic shall arrange a Treaty of Commerce and Navigation, the High Contracting Parties bind themselves respectively to consider the subjects and citizens of both States, for the payment of duty on the natural and industrial productions, effects, and merchandize which they may import or export from the respective territories, as also for the payment of port dues, in the light of those of the most favoured

Every exemption and every favour or privilege which in matters of commerce, navigation, or customs shall be conceded by one of the Contracting States to any other nation, shall by the act be extended to the subjects of the other State; and these advantages shall be enjoyed gratuitously if the concession have been gratuitous, or otherwise on the same conditions as have been stipulated, or by means of a compensation settled by mutual agreement.

XI. The present Treaty, consisting of 11 Articles, shall be ratified, and the ratifications shall be exchanged at this Court within the term of one year, or sooner if possible.

In faith whereof we, the undersigned Plenipotentiaries of Her Catholic Majesty and of the Argentine Republic, have signed it in duplicate and sealed it with our respective seals, at Madrid, the 9th of July, 1859.

(L.S.) SATURNINO CALDERON COLLANTES.
(L.S.) JUAN B. ALBERDI.

TREATY of Limits, between Brazil and Venezuela.—Signed at Caracas, May 5, 1859.

(Translation.)

THE Republic of Venezuela and His Majesty the Emperor of Brazil, recognizing the necessity of coming to a definitive agreement relative to the boundaries of their respective territories, so as firmly to establish the harmony which happily exists between the two countries, and to remove any subject of disagreement; and wishing at the same time to facilitate and promote between the two

II. The Republic of Venezuela and His Majesty the Emperor of Brazil declare and define the boundary line in the following manner.

1. The boundary line shall commence at the sources of the River Memachí, and following the highest part of the land shall pass by the sources of the Aquio and of the Tomo, and of the Guaicia and Iquiaro or Issana, so that all the waters which run into the Aquio and Tomo shall belong to Venezuela and those which go to the Guaicia, Xie, and Issana to Brazil; and the line shall cross the Rio Negro in front of the Island of San José which is next the stone of the Cucuy.

2. From the Island of San José it shall proceed in a straight line dividing the water course of Maturaca midway, or at the point agreed upon by the Commissioners of demarkation, and which may conveniently divide that watercourse, and from thence passing the groups of the hills Cupí, Imerí, Guay, and Urucusiro, it shall cross the road which connects the river Castaño with the Marari and by the mountain of Tapirapeco, taking the crests of the ridge of Parima, so that the waters which flow to the Padivarí, Mararí, and Cababurí continue to belong to Brazil, and those which go to the Turuaca or Isapa or Xiaba to Venezuela.

3. It shall proceed from the summit of the mountain Parima to the angle which it forms with that of Pacaraima, so that all the waters which flow to the Rio Blanco still belong to Brazil; and those that flow to the Orinoco, to Venezuela; and the line shall continue on the most elevated points of the said mountain ridge of Pacaraima, so that the waters running to the Rio Blanco still belong, as stated, to Brazil; and those which flow to the Esquiro, Cuyuní, and Caroní to Venezuela, up to the point to which the territory of the two States extend in their eastern part.

III. After the ratification of the present Treaty, the High Contracting Parties will each name a Commissioner to proceed by common accord in the shortest possible time, to the demarkation of the line at the points where it may be necessary, in conformity with the preceding stipulations.

IV. If at the time of demarkation any serious doubts should occur, arising from inexact data of the present Treaty, owing to the want of accurate maps and minute surveys, these doubts shall be amicably settled by the two Governments to which they are to be submitted by the Commissioners, the agreement resolving them to be considered as an interpretation or addition to the Treaty itself; and it is understood that if the said doubts occur at one point, the demarkation at the others indicated in the Treaty shall still be proceeded with.

V. If, for the purpose of fixing at one point or another,

boundaries which would be more natural or convenient to eith nation, an exchange of territory should appear advantageous, th may be effected by opening fresh negociations, but the demarkati is to be proceeded with, just as if no such exchange was to tal place.

VI. His Majesty the Emperor of Brazil declares, that in treati with the Republic of Venezuela relative to the territory situated the west of the Rio Negro and washed by the waters of the Tomo a Aquio, of which the Republic of Venezuela alleges possession, b which has already been claimed by New Granada, it is not h intention to prejudice any rights that this latter Republic can pro to the said territory.

VII. The Republic of Venezuela and His Majesty the Emper of Brazil, agree in declaring the communications free between the States by the mutual frontier, and that the transit of persons a their luggage, by the said frontier, is exempt from all national a municipal imposts, such persons and their luggage being sole subject to the police and fiscal regulations which may be establishe in their respective territories.

VIII. The Republic of Venezuela agrees to permit Brazili vessels duly registered to pass from Brazil to Venezuela and *vi versâ*, by the Rio Negro or Guainia, in the part which belongs it, the Casiquiare and the Orinoco, provided they submit to th fiscal and police regulations established by the superior authori of Venezuela.

In reciprocity and as compensation, His Majesty the Emperor Brazil agrees to allow to Venezuelan vessels, duly registered, th free passage from Venezuela to Brazil and *vice versâ*, by the R Negro and Guainia and Amazonas in the part which is his exclusi

be regularly registered for the navigation here treated of in the waters of Venezuela, if its owner and captain should not be subjects of the Empire of Brazil.

No Venezuelan vessel shall be considered as in a condition to be regularly registered for the navigation here treated of in the waters of Brazil, if its owner and captain should not be citizens of the Republic of Venezuela.

In the crews of the vessels of each of the High Contracting Parties there should be at least one-third of Venezuelans or Brazilians, or two-thirds of riverain foreigners, it being requisite in any case that the captain should belong to the country of which the vessel bears the flag.

XI. The vessels of which the preceding Article treats will be enabled to trade in those ports of Venezuela or Brazil which are now, or may hereafter be opened by the respective Governments.

If the entrance in the above ports be necessitated by distress, and the vessel should leave with the cargo with which she entered, no duties shall be collected for entry, stay, or departure.

XII. Each of the two Governments shall name the places, besides the ports open to trade, at which the vessels, whatever be their destination, may communicate directly with the land by means of small boats, to repair damages, provide themselves with fuel or with other articles they may be in want of, and where these as well as those generally called open-mouthed or without waist, (combes) which do not transport merchandize, but only passengers, may rest and pass the night.

In these places the local authorities will require, although the vessel may be on its direct course, the presentation of the list of the crew and passengers and of the manifest of the cargo, and will *visé*, gratis, all or any of those documents.

The passengers will not be allowed to land there without permission from the respective authorities, to whom, for this purpose, they will have to present their passports to be *viséd* by them.

XIII. The two Governments will reciprocally inform each other the places which they intend for the communications mentioned the preceding Article; and if either of them should judge it inconvenient to make any alteration in this respect, the other shall informed thereof in due time.

XIV. All communication with the land, unauthorized, or in places not appointed, and excepting cases of distress, will be punished by fines, besides the other pains which the delinquents may incur according to the legislation of the country in which transgression may be committed.

XV. It will only be allowed to any vessel to discharge all or part of her cargo elsewhere than in the ports open to commerce,

in case that from damage sustained, or from any other extraordinary circumstance, it cannot continue its voyage; provided the captain (where this is possible) shall previously apply to the officials at the nearest fiscal station, or should these be wanting, to any other local authority, and submit himself to the measures those officers or that authority may judge necessary, in conformity with the laws of the country, to prevent any clandestine importation.

The measures taken by the captain of his own accord, before applying to the said officers or local authority will be justifiable if he proves that they were indispensable for the safety of the vessel or of its cargo.

The merchandize so landed, if re-exported in the same vessel or in small craft, will pay no duties.

XVI. Any trans-shipment made without prior authorization or without the formalities prescribed in the preceding Article, is subject to a fine, besides the punishment imposed by the laws of the country on those committing the crime of smuggling.

XVII. If, owing to the violation of the fiscal and police measures relative to the free river transit, any seizure of merchandize, vessels or small craft should be made, such seizure shall be immediately remitted, on sufficient bail to the value of the objects seized being given.

If the contravention be only liable to a fine, the offender on giving the like security shall be allowed to continue his voyage.

XVIII. In cases of shipwreck or of any other misfortune, the local authorities shall afford all the assistance in their power, both for the saving of lives, vessel and cargo, and for sheltering and providing for all that is saved.

XIX. If the captain or owner of the cargo, or the person representing him, should desire to transport the cargo directly from the place of wreck to the port of destination or to any other, he can do so without payment of duties or of any other charges than those of salvage.

XX. When the captain of the vessel or the owner of the merchandize, or whoever represents them is not at hand, the outlays or expenses of salvage shall be paid by the local authorities, and be repaid to them by the owner or his representative, or out of the merchandize, of which a sufficient quantity shall be sold by public auction, according to the laws of each of the countries, for this purpose, and for the payment of the respective duties. With regard to the remaining merchandize, it is to be treated in conformity with the laws of each country relating to cases of shipwreck in the territorial waters.

XXI. Each State may impose a duty to provide for light-houses, buoys, and any other facilities which it may give to navi-

gation, but this duty shall only be collected from vessels or craft which go direct to its ports and those which put into them (except in cases of distress) should they load or unload there.

Excepting this duty, the river transit shall not be burthened directly or indirectly with any other impost, whatever may be its denomination.

XXII. The High Contracting Parties, knowing the expensiveness of all enterprises for navigation by steam, and that no profit will be made at the beginning by the first Venezuelan or Brazilian Company which may be established for the river steam navigation between the two countries, reciprocally agree to aid it in a manner to be hereafter stipulated by special agreements and contracts.

XXIII. All the stipulations of this Treaty which do not relate to boundaries shall remain in force for 10 years from the date of the exchange of the ratifications, at the expiration of which time they shall continue in force until one of the High Contracting Parties notifies to the other its desire to terminate them, and they shall cease 12 months after the date of that notification.

XXIV. The present Treaty shall be ratified by his Excellency he President, or by the person in charge of the Executive power f the Republic of Venezuela, and by His Majesty the Emperor of Brazil; and the ratifications shall be exchanged at Carácas or at Rio Janeiro within one year from the date of its approval by the Venezuelan Congress, or before if possible.

In faith whereof, the undersigned Plenipotentiaries of his xcellency the President of the Republic of Venezuela and of His Majesty the Emperor of Brazil, in virtue of our full powers, do sign e present Treaty, and affix thereto our respective seals.

Done at Carácas, the capital of the Republic of Venezuela, on e 5th day of May, of the year of our Lord 1859.

(L.S.) LUIS SANOJO.
(L.S.) F. J. PEREIRA LEAL.

SCOURS du Prince Régnant des Principautés Unies, à l'Ouverture de l'Assemblée Législative.—Jassy, le 6 *Mars,* 1860.

SSIEURS LES DEPUTES,

LA position politique des Principautés Unies a été fixée par la nnaissance du vote national des 5 et 24 Janvier, aussi bien de art des Puissances garantes que de la part de la Sublime Porte. A l'heure présente, notre préoccupation la plus vive doit donc pour but les améliorations morales et matérielles, qui, en

cicatrisant les plaies d'un passé aussi triste que douloureux, puissent élever la nation Roumaine au rang qui lui est dû.

Mon message du 6 Décembre a fait connaître au pays les voies adoptées par mon Gouvernement pour parvenir à la réalisation des grands principes de la Convention.

Aujourd'hui, Messieurs les Députés, mon Ministère est prêt à vous soumettre une série de projets de réorganisation en rapport avec les besoins du pays et l'esprit de la Convention.

Songez, Messieurs les Députés, que vous êtes appelés à accomplir de grandes et utiles réformes.

Bannissez de votre esprit toute autre pensée; souvenez-vous que vous êtes investis du caractère de législateurs, caractère qui vous rend responsables du sort de la Roumaine.

Quant à moi, qui représente le principe de l'Union, j'aurai toujours en vue que l'avenir de la patrie Roumaine repose sur ce principe salutaire, comme sur le patriotisme éclairé des mandataires de la nation.

Que Dieu répande ses lumières sur les travaux de cette Assemblée!

Que Dieu protége les Principautés-Unies!

MESSAGE du Prince Régnant des Principautés Unies, à l'Ouverture de l'Assemblée Elective de Moldavie.—Jassy, le $\frac{4}{16}$ Décembre, 1860.

Messieurs les Deputes,

Dans le voyage que je viens de faire à Constantinople, j'ai acquis la certitude que, plus que jamais, la Roumanie peut compter sur les sympathies de la Sublime Porte et des Puissances garantes. Soyons énergiques, mais tout à la fois, soyons prudents. Que nos améliorations intérieures rendent le pays fort; qu'elles inspirent à l'Europe une pleine confiance; et l'avenir, un avenir bien rapproché, se chargera de remplir nos besoins et nos vœux légitimes.

Dans le court intervalle des 5 mois qui se sont écoulés, depuis la clôture de votre dernière session, mon Gouvernement a mis en application la plupart des lois et des votes de l'Assemblée, auxquels j'ai donné ma sanction.

Nous sommes dans la première année de notre réorganisation intérieure; nous avons eu à lutter contre les difficultés nombreuses et de tous genres. J'espère que l'Assemblée tiendra compte à mon Gouvernement, de toutes ces difficultés, dont la plus grave a été d'initier le pays à un système d'impots bases sur le principe de l'égalité, tandis que jusqu'ici ce n'était qu'un système de privilèges et d'exemptions.

Néanmoins, après avoir suffi à tous les services publics, si nous arrivons à la perception intégrale des revenus votés par vous, Messieurs, nous pourrons compter sur une réserve considérable, qui servira à payer une partie des dettes contractées par les Gouvernements antérieurs.

Messieurs les Députés, une série de projets préparés par la Commssion Centrale est prête à vous être présentée; ceux qui doivent être, tout d'abord, l'objet de vos délibérations, concernent la réforme de la justice pénale, l'autorisation de contracter un emprunt destiné à venir particulièrement en aide à la propriété foncière, écrasée aujourd'hui sous le poids de l'hypothèque et de l'usure, et l'amélioration du sort des paysans, cette amélioration garantie par la Convention, et à laquelle nos intérêts les plus vitaux demandent que vous donniez, au plus tôt, une profonde et scrupuleuse attention.

Il est encore une réforme pour laquelle mon Gouvernement réclamera, sous peu, votre coopération; c'est la réforme de la loi électorale, qui aura pour but de faire de l'Assemblée, une plus complète représentation des intérêts du pays.

Messieurs les Députés, une expérience de deux années vous a convaincus, sans doute, comme elle a convaincu le pays, comme elle m'a convaincu moi-même, que nous devons oublier les luttes du passé, mettre de côté l'esprit de parti, et nous donner tous la main pour travailler à la réorganisation du pays. Le temps des faits est venu; le temps surtout est venu d'appliquer, avec sincérité, l'Article LVI de la Convention; car c'est dans cet Article que gît tout l'avenir national, tout l'avenir social de la patrie.

Mettez-vous donc sérieusement à l'œuvre.

Quant à moi, Messieurs les Députés, je vous promets tout mon concours. Est-ce que la cause du pays n'est pas ma cause personnelle ? Est-ce que je puis aspirer à l'affection de mes concitoyens, est-ce que je puis réclamer une page dans les annales de la Roumanie, si ce n'est en consacrant toute ma volonté, toutes mes forces au développement et à la prospérité de mon pays ?

Ne perdez pas de vue, Messieurs les Députés, que plus une nation développe énergiquement et pacifiquement ses forces, à l'intérieur, plus elle est forte et respectée, au dehors!

Sur quelques points du pays, le respect dû aux lois a été malheureusement méconnu; mais grâce à l'energie déployée par les autorités locales, grâce au courage de notre jeune armée qui, partout, a fait son devoir, la tranquillité a été promptement rétablie.

Durant cette époque difficile de transition où nous nous trouvons, nous promets, Messieurs, de maintenir l'ordre matériel; mais il faut aussi que, de votre côté, vous me donniez toute votre assistance, en aidant mon Gouvernement fort, et en vous appliquant sérieusement à faire disparaître *les causes* qui pourraient amener le désordre.

Lorsque je vous adresse ces paroles, je remplis, envers le pays, un devoir sacré.

J'ai la conscience de ma mission; je sais et je n'oublierai point que je représente le principe de l'Union; mais la réalisation de ce principe salutaire dépend, avant tout, du patriotisme, de la concorde, de la prudence politique de tous les corps de l'Etat, comme de l'esprit d'ordre, de paix et de progrès réel qui doit nous animer et nous guider en tout et pour tout.

Que Dieu bénisse vos travaux!

La Session de l'Assemblée de Moldavie, pour l'année 1860-61, est ouverte.

Par le Prince: (L.S.) ALEXANDRE JEAN.

KOGALNICEANO. J. GHIKA.

BOJINCA. M. JORA.

D. COZADIN. A. ROMALO.

CORRESPONDENCE between Great Britain, Austria, Denmark, France, Germanic Confederation, Hanover, Prussia, Saxony, and Sweden, respecting the Affairs of the Duchies of Schleswig and Holstein.—1860.*

No. 1.—*Mr. Paget to Lord J. Russell.*—(*Received February* 20.)

(Extract.) *Copenhagen, February* 16, 1860.

IN reference to Schleswig, I have the honour to transmit to your Lordship a translation of a petition to the King, signed by 27 members (more than half) of the Schleswig Diet, relative to the grievances which oppress the Duchy.

Your Lordship will perceive that the subjects principally alluded to are: the forced instruction in the Danish language, the use of Danish in the churches in districts where it is not understood, the suppression of certain scientific societies, restrictions on the liberty of the press, the prohibition of all meetings, and the desire of Schleswig to be politically united with Holstein.

Lord J. Russell. A. PAGET.

(*Inclosure.*)—*Petition.*

(Translation.)

MOST GRACIOUS MAJESTY, *Flensburg, January*, 1860.

IN consequence of your Royal Majesty's commands the States were called together for the last time in this electoral period, and for the first time after the publication of the Patent of November 6, 1858. The relations in the different portions of the country subject

* Laid before Parliament, 1861.

to your Majesty's sceptre are of such a peculiar nature that the States consider it their duty, as openly as humbly, to pronounce themselves with respect to the same.

The States feel themselves the more obliged to this step as your Majesty, in the Patent of Summons of December 10, 1859, pronounced the expectation that the States on their side would assist in carrying out your Majesty's fatherly wishes; and that thereby the trust reposed in them will be fulfilled.

The States could give the most humble assurance that, as it hitherto has always been their steadfast endeavour, so they would in the present session seize with joy every opportunity which might offer to carry out the graciously pronounced expectation, and give a testimony of their unlimited confidence in your Majesty's fatherly views.

We beg your Majesty that you will be graciously pleased to recognize that what has led us to this step is a care for the welfare of the portion of the monarchy which we represent, and the conviction that we could not better respond to the steady confidence placed in us than by openly, and without restraint, confiding to our monarch's heart that which, with respect to the condition of our country, fills our hearts with sorrow.

After the sad confusion in the years 1848 to 1850 ten years followed, which we dare not designate as years of peace. After the period of open war came, first of all, a period which for the inhabitants of the Duchies was nearly as oppressive, and in which an orderly and legal state of things was entirely wanting. The people entertain the hope that that sad state of things will undergo a change, in so far as it had reference to the constitutional changes that had, in the meantime, become necessary in the Monarchy.

The Royal Patent of January 28, 1852,* reduces that hope to the smallest possible limits; and not even that was conceded which the Duchies, after that Patent and the foregoing negotiations, might have expected. We take the liberty of most humbly setting forth some of the points that have come under consideration:

1. By the Royal Patent of the 28th of January, 1852, it was promised to the country that, by the regulation of the affairs of the Monarchy, under the retention and further development of the arrangements of the Monarchy, which either comprise the whole of the different portions, or which are formed for the separate parts of the same, should be made in such a spirit as should maintain and approve the justly existing relations.

That spirit has unfortunately been wanting in the Government measures from 1852 till this present time. We regret deeply to be obliged to declare that the tendencies of the Legislature and the

* Vol. XLI. Page 1051.

Government during that period have evidently been to subvert the existing arrangements and relations without regard to the interests of the Duchy, the views of its representatives, and the wishes of the country itself, with the object of introducing Danish institutions, Danish Government and coin, Danish language, and even Danish names of towns in place of those hitherto existing.

2. The Royal Patent of January 28, 1852, promises to give to the Schleswig States, in a Constitutional manner, such a development that the Duchy of Schleswig should receive, with regard to the affairs appertaining to the sphere of action of its hitherto consultative States, a representation with a power of decision. This promise is perfectly clear. The previous legislative sphere of action of the States (Section 4 in the Law of May 28, 1831*) embraces all general laws which have for their object rights over person and property, taxes and public burdens. In a no less degree was there vouchsafed by the promises given in the years 1851 and 1852, that a union of the provinces into a "Heelstat" should only take place after previous consultation with the States of Schleswig. This promise, unless it is to remain meaningless, cannot be understood otherwise than in this sense, that no organization appertaining thereto should take place without the consent of the Schleswig States. These promises have in no way been fulfilled.

Against the wishes of the representation of the country there was published on February 15, 1854, a special Constitution for the Duchy of Schleswig, the most important paragraphs of which, viz., 1 to 4, were not, after all, laid before the States for consideration. In the examination of the draft for this Constitution by a proceeding unusual, but not perhaps unintentional, there was not given to the States an occasion to vote concerning the acceptance or rejection of it as a whole. Not even for the yearly adjustment of the special Schleswig Budget was any co-operation allowed to the States. The lesser sphere of action which still existed was in the next year still further confined by the Patent of November 10, 1855, published without any consultation with the States. After that, by section 2 of the Constitutional Law of February 15, 1854, which was not laid before the States, and which is in contradiction to the Royal Patent of January 28, 1852, the revenues of the domains situated in the Duchy of Schleswig are most unjustly diverted from the country. There is further withdrawn from the States in an unconstitutional manner by the Patent of November 10, 1855, all co-operation in the legislation and administration of the domains. Likewise the Ordinance of October 2, 1855, by which the common affairs of the Monarchy ought to be regulated, was not calculated to give to the Duchy of Schleswig the independent and equal position with regard

* Vol. XVIII. Page 1202.

to the other parts of the Monarchy, upon which, after the assurances from 1851 to 1852, it had a just demand.

Apart from the formal defects of the Ordinance, the interests of the Duchy are so little maintained by it that the Representatives cannot, even if the Representatives of the Duchies of Holstein and Lauenburg united their votes to theirs, in the face of the Danish majority, obtain any favourable result for the Duchy of Schleswig.

It will doubtless be known to your Majesty that one of the most influential members of the "Rigsdag" has, in a public meeting, recommended the Ordinance of October 2, 1855, with the remark that this Ordinance was such as justly to secure to the Danish majority a preponderance in the "Rigsraad." In this spirit the whole Constitution has been drawn up, both as regards the common and special affairs.

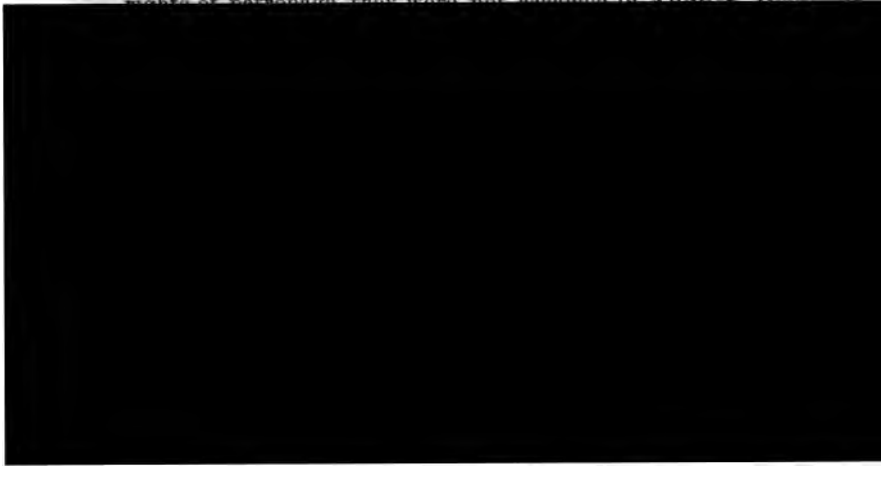
3. Furthermore, the Royal Patent of January 28, 1852, promises the Danish and German nationalities in the Duchy of Schleswig perfect equality and powerful protection.

Most gracious King! Words fail us to express our feelings which arise at the thought of in how great a degree the reverse of these promises has actually taken place. We know well, and your Majesty has repeatedly expressed, that it was indifferent to you whether your subjects spoke German or Danish; that it was quite the same to your Majesty what language they used if they were only faithful subjects. But the former Ministers have certainly prevented your Majesty's promises and views from being carried out or of being of service to the country. Instead of the promised equality of both languages, there has been a violent and unmitigated suppression of the German language. By an Annex to the Constitution for the Duchy of Schleswig of February 15, 1854, in the Deanery of Schleswig in 26 parishes, in the town of Tonder, and in 10 parishes in its Deanery, in 4 parishes belonging to Husum and Bredsted Deanery, and in 9 parishes in Gottorp Deanery, the language of the schools, which for centuries have been exclusively German, has been violently, and in opposition to the wishes of the inhabitants, superseded, so that, in all these parishes, only 4 times a week is instruction compulsory in the German language, but even this is not done. In the greatest part of these parishes the German language is exclusively the language of the people, and in all the remaining parishes it prevails, and instruction is therefore given, in most of these parishes, to the children in what is to them a foreign language. It is sought by all possible means to prevent the children in these parishes being instructed by German tutors, and it is unconditionally forbidden that two or more families together should maintain such a tutor. When it cannot be prevented that under such circumstances many children of the so-called mixed districts,

i. e., of all the before-mentioned districts, are placed at their parents' expense in those school districts where the language of the schools is German, one has it still in one's power to frustrate this last attempt of the parents to educate their children in their mother tongue by the fact that the children are obliged to return to their parents to be instructed in the Danish language in the last year before their confirmation, which is held in this language. By such a course of education in a language which for the children is a foreign one, it is a necessary consequence that, with few exceptions, the children grow up without discipline, and in the schools of the country towns, besides the compulsory writing and arithmetic, they only learn Danish reading and a few Danish phrases by heart. By the same regulation the religious services in the above-named parishes are to be held alternately in Danish and in German, although in most of the parishes scarcely any of the inhabitants understand a Danish sermon, but all understand well a German sermon.

It is a notorious fact, therefore, that on the Sundays when a Danish sermon is preached the church is almost always empty. Here is an instance of a grievous oppression of a whole population as to the use of the native German language, and as to attendance at church and school, being in direct contradiction to the promises given in the Supreme Patent of January 28, 1852. The repeated entreaties in every Assembly of the Schleswig States for the re-introduction of the German language, where it is the language of the people, have hitherto been without effect.

In order to remove all opposition to the banishment of the German language, notwithstanding the petitions made by the Schleswig States on the 21st of February, 1857, against such an attack on the



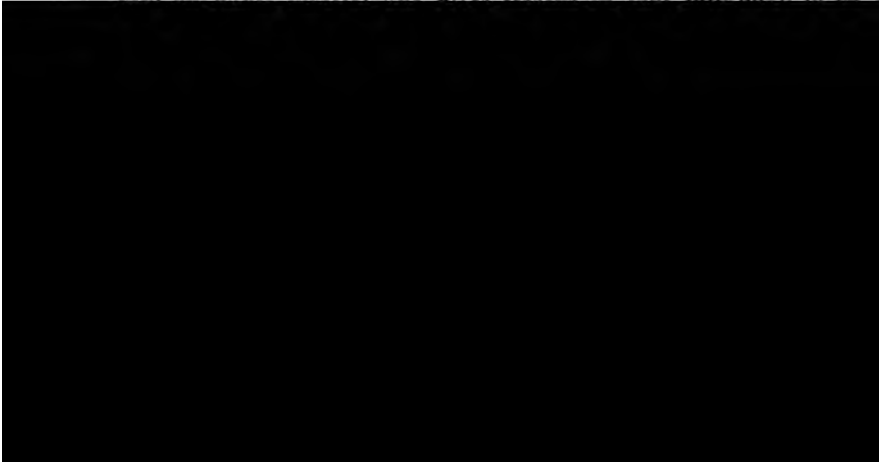
munications drawn up and addressed to them by clergymen, church visitors, and other authorities in that language; and the strict observance of this Decree, which is so much at variance with an equality of the rights of the nationalities, and which cannot be derived from the Constitution of Schleswig, is sometimes enforced by a heavy fine. It has almost the appearance as if one wished to spread the false belief that the whole Duchy of Schleswig, from its language, is already Danish, when the language of business, still in the southern parts of Schleswig, has lately begun to be Danish, and most of the towns have been obliged to change their names, which are still retained in the Constitution of February, 15, 1854. The Schleswig Ministry has, by letters dated June 2, 1856, and July 16, 1858, sent to the authorities in Middle Schleswig, a printed list of a great number of towns, of which the former German name are in part so changed for Danish, that one cannot discern what towns are really designated, and at the same time, they ordered the authorities to use these designations in their despatches. The same designations are found in an ordnance map of the Duchy of Schleswig which has been published, whereas another map of the Duchy of Schleswig (offered for sale), which was advertised, was suppressed by a Decree of 1858, before it came out.

We take the liberty, with reference to the above, to point to the true picture as regards the matter of the language in Schleswig which is found in the Report of the Holstein States of March 11, 1859, concerning the affairs of the Constitution. The most hostile and cunning craftiness could not have discovered a more efficacious means of arousing throughout the country, down to the humblest cottage, an estrangement from and unfavourable opinion of the Danish name and the Danish language than the fruitless and objectless suppression of the German language, which cannot be defended before God or man; a suppression which (one can hardly credit it) has even lately been carried so far that the physicians of the lunatic asylum in Schleswig are forced, with regard to the patients from the so-called mixed districts, and from the districts where Danish is spoken, to make use of the Danish language in corresponding with the authorities of those places and in their official reports, and in conducting the medical journal, although this institution is common to both Duchies, and is classed under a collegiate administration, consisting of the Minister for Holstein and the Minister for Schleswig; and it is to be feared that the present excellent German physicians will be removed. Nevertheless, this regulation is in entire unison with the former regulations which have been published for the Medical Department of the Duchy of Schleswig, and which show that not only the church and the school, but the medical department is used with a political view.

The appointment of new district medical officers is placed in the hands of the medical inspector, an entirely new institution, which hitherto has been chiefly remarkable for making the country Danish.

It is furthermore in contradiction with the provincial equality of rights of both nationalities, and with the existing laws, that the administration of the Duchy of Schleswig, the civil as well as the religious, is almost exclusively confided to employés and clergymen who, for the most part, are not born in the Duchy of Schleswig, but in the Kingdom; and that natives of the Duchy, especially when they have studied in the University of Kiel, are, for the most part, excluded from appointments. And it is generally the case that a great number of these employés and clergymen, who frequently do not know or take any notice of local arrangements and communal ones, and who treat everything which they find differing from the institutions of the Kingdom as a misapplication which, without any further notice, should be done away with, are not, in accordance with the requirements of the law, qualified for appointments in the Duchy of Schleswig, because they have not studied at the University of Kiel for the period of two years prescribed for employés by the Decrees of February 1, 1768, and September 21, 1774. It is at variance with the equality of the nationalities that the time for leaving the classical schools in the Duchy of Schleswig has been so changed latterly that it no longer coincides as formerly with the commencement of the lectures in Kiel, but of those in Copenhagen.

And what is the state of the case as regards German in these classical schools? Hardly any of the masters know German thoroughly. A proof of this is to be found in the German book published under the patronage of the Schleswig Minister, by M. Lorenzen, an under master, who gives lessons in that language in the



that they have acted in accordance with your Majesty's gracious views. In direct contradiction with them a number of harmless societies, the tendencies of which are anything but political, but partly bear a religious, artistic, scientific, or agricultural character, and all having had the honour of being patronized and supported by your Majesty, have been abolished and prohibited in the Duchy of Schleswig, while they continue to exist in Holstein.

Among other things we are specially reminded of the Proclamation of the 23rd April, 1853, which, as regards Schleswig, prohibited the Bible Society of the Duchies of Schleswig and Holstein, approved by Royal Resolution of the 17th November, 1815; further, the Ministerial Order of the 12th April, 1853, which most stringently forbade all subjects in the Duchy of Schleswig to become members of an Assurance Association against the disease of the lungs in horned cattle, established for both Duchies. It corresponds with such acts that the inhabitants of Hütten county were prohibited, under threat of punishment, from aking part in an exhibition of animals (cattle show) which took lace in the county of Rendsburg during the summer of 1859, as et forth in the Report of the Holstein States of the 11th March, 859, on the question of a Constitution. We are, in like manner, minded of the Association for the Advancement of Garden ulture; of the Art Union, the members of which are headed by ur Majesty since 1857, and which forms a part of the University Kiel, consequently a common institution for both Duchies; rther, of the Society of National History of which the late King rederick VI. became the patron in 1833; of the Society of ntiquaries, to which your Majesty has afforded contributions, which cieties both form part of the University of Kiel. These latter ciety are abolished and prohibited, as regards Schleswig, by a inisterial Order of the 23rd December, 1858, and, independent this, the former Ministry have, without further consideration, ablished the maxim that, in the Duchy of Schleswig, no Unions Societies, should be tolerated if their tendency were to unite the abitants of the Duchy of Schleswig with Holstein in common on with any special object in view, except those guaranteed to n by the Royal Patent of the 28th January, 1852. By these ptions are consequently only meant the University of Kiel, Equestrian Order ("Ritterschaft"), the Canal, the Fire Assue Society, the Prisons, the Deaf and Dumb and the Lunatic lums, whereby the Ministry appear entirely to ignore that the Union, the Historical and Antiquarian Societies specially form nets to the University of Kiel.

t would be superfluous further to explain that the maxim

established by a former Ministry, fully carried out, must lead results entirely contrary to common sense. Your Majesty's just and wisdom will not sanction the suppression of Societies in portion of the country, as has occurred, though protection specially been promised them, and your Majesty continues, mo over, to afford them your Royal countenance.

The mode of acting of the former Ministry, with reference Societies, deserves to be judged in the same way as the prohibiti renewed in December, 1858, of entry and sale in the Duchy Schleswig of the almanac published at the office of the "Alt Mercury," the contents of which are most harmless and alm indispensable for many on account of the legal sessions. T publication, strange to say, is in said Ministerial Order speci referred to as the "Royal privileged and generally useful almana and is at the same time, permitted freely to circulate in Duchies of Holstein and Lauenburg and in the Kingdom.

The same may be said respecting the numerous prohibitions books and maps in the Duchy of Schleswig, the circulation of wh is neither prohibited in the two other Duchies or in the Kingdo a circumstance which obliges every inhabitant of Schleswig, if will be sure not knowingly to transgress the law or make him liable to annoyance, to obtain a list of the prohibited publicati which annually increases in extent.

In a like spirit the press is supported and used only to adva the Danish Propaganda, for which purpose it receives considera pecuniary assistance from the special revenue of Schleswig. It scarcely be said that a right of petitioning exists; the privil of holding free meetings and forming societies does not e at all.

[redacted]

manner that this management has been transferred to the District Deputy vacating his seat.

Thus, as regards the Duchy of Schleswig, a state of affairs has been brought about, the pressure of which has become perfectly intolerable. We humbly pray that your Majesty will be graciously pleased early to remedy this evil.

The Assembly of States has considered it its duty most humbly to lay before your Majesty this plain and truthful picture of the condition of the country, because it cannot believe but that your Majesty has received from earlier Ministers an untrue and erroneous representation of the actual state of affairs. The States are of opinion that they can only fulfil their duty as your Majesty's faithful subjects, and as representatives for the Duchy of Schleswig, by expressing their firm conviction that a complete change in the course adopted by former Ministers can alone lead to peace and the welfare of the Monarchy.

The idea must be relinquished that the Danish language is a political person, whose jurisdiction must be increased by conquest. A language is made for man, but, on the contrary, man was not created for a language. As long as a church and school are abused by being employed in the propaganda of the language; as long as the population are not permitted to use their own language when and where they please, more especially in the education of their children, so long the State is placed in direct opposition to the most important requirements of Christianity and civilisation, and is deprived of the very first attributes for a free national existence. As long as the purport of all acts of legislation and administration is but to establish a closer union of Schleswig with Denmark, and its more complete separation from Holstein, it cannot be said that the wishes and interests of Schleswig are taken into consideration

Gracious King! The Schleswig States have, on the occasion of their present meeting, felt in conscience bound to express to your Majesty their grievances and prayers with equal confidence and freedom, because since last session steps have been taken by your Majesty's Government by which the independence of the Duchy represented by them, and its equal rights with the other portions of the Monarchy, are more than ever seriously threatened. By the patents of November, 6, 1858, your Majesty's Government have, as regards Holstein and Lauenburg, repealed sections 1 and 6 of the Special Constitution for Holstein of June 11, 1854, as well as the Patent of October 2, 1855, respecting the common affairs of the Monarchy; but they have also declared that the last-mentioned was to remain in full force in the Kingdom and in the Duchy of Schleswig. As the promises made in the years 1851 and 1852 had

not a one-sided reference to the Duchy of Holstein, but, as is made evident by the Royal Patent of January 28, 1852, are also in every respect applicable to the Duchy of Schleswig, it follows that we, as Representatives for this country, express the conviction that also the paragraphs 1 and 4 in the Special Constitution of February 15, 1854, which have not previously been laid before the Assembly of States of Schleswig for discussion, can no longer remain in force.

If that be denied to the Duchy of Schleswig which is granted to the Duchy of Holstein, then this fact would openly prove that your Majesty's Government do not afford equal rights to countries entitled thereto.

From the same reason the Assembly of States feels justified in pronouncing it as a natural consequence, that the Ordinance of October 2, 1855, for the Duchy, represented by the Assembly, can no longer remain in force after its repeal by the aforesaid Duchies of Holstein and Lauenburg.

The Ordinance of October 2, 1855, should, in conformity with its entire purport, be applicable to the various portions of the Monarchy as a whole, but not to the one or the other part thereof. The Council of State (Rigsraad) should, as an organ for the entire Monarchy, represent it as a whole; but the Danish members should not represent the Kingdom only, as little as those of Schleswig should represent that Duchy exclusively.

But so much appears certain; that the Ordinance, when no longer in force as regards the entire Monarchy ("Heelstaten") can as little be valid for the separate portions thereof. If a common Constitution were to unite Denmark with Schleswig, then a new law would be required, but such an one could not legally be enacted without the co-operation of the Assembly of the States of Schleswig. The Assembly of States must consequently, in accordance with its conviction, join in the protest already made by two members of the Schleswig Assembly during the last session of the Council of State (Rigsraad), against the legal validity of the Ordinance of October 2, 1855. That this protest was only made in the Council of State (Rigsraad) by two Schleswig members was the result of the circumstance that the greatest portion of the German population of the Duchy of Schleswig had not taken part in the election to the Council of State, as little as in the curious regulations of the election law. In consequence of these two circumstances the German population of the Duchy of Schleswig were at last only represented in the Council of State (Rigsraad) by two Councillors of State, though the German nationality in the Duchy of Schleswig forms the decided majority. The Assembly of States has already called your Majesty's attention to the fact that, by the Ordinance of October 2, 1855, the interests of the Duchy of Schleswig, in the face of the majority of

the Kingdom, were not sufficiently protected, even when this Ordinance was valid for all portions of the Monarchy, and when the votes of Holstein and Lauenburg could be joined to those of Schleswig.

Since the repeal of the Ordinance as regards Holstein and Lauenburg, this will be still less the case, as the Schleswig Representatives in the Council of State ("Rigsraad") will be unable to carry any measure in the face of the disproportionate majority of the Kingdom. Thus, by the Patent of November 6, 1858, respecting the repeal of the Ordinance of October 2, 1855, for Holstein and Lauenburg, the Duchy of Schleswig has been placed in a still worse position. The States consider this position so threatening that they can only discover in the aforesaid Patent an act towards the formal and the *de facto* incorporation of the Duchy of Schleswig with the Kingdom of Denmark. In the years 1851-52 your Majesty has said and promised that neither such an incorporation should take place, or any steps having such an object in view be taken. The States feel confident that your Majesty will not now recall the Royal promise, and allow that Schleswig, politically made a minor, be exclusively subjected to the will of the Danish parties.

Gracious King! It is well known to the States that on the other side of the King's Rivulet ("Kongeaan"), the assertion has been made that an amalgamation of Schleswig with the Kingdom would be favourable to the interests of the latter. This assertion is erroneous. The States could with much greater justice plead that the stability of the Danish Monarchy has existed in undisturbed peace for centuries not alone without the proposed amalgamation of Schleswig with Denmark, but, on the contrary, more as the result of the union between the Duchies of Schleswig and Holstein. This union, indispensable to the welfare and contentment of the Duchy of Schleswig, which has been protected and supported by your Majesty's Royal forefathers during 400 years, and the continuance of which is promised by the Patent of the 28th of January, 1848,* has neither injured your Majesty's Royal prerogatives, or the true interests of the Danish people. As this union was then guaranteed and secured in accordance with the free-will of the Duchies and an understanding with the Sovereign, elected by them on that condition, in a like manner it cannot be changed and repealed by a one-sided act, but only with the consent of the Sovereign and of both the Duchies. The Representatives of the Duchy of Schleswig have never given their consent to such a change, and will never unanimously do so; this we desire loudly to proclaim to the whole world. For centuries the Duchies were united in fellowship to the great blessing of both, which as the

* *Vol. XL.* Page 1270.

Royal Minister to the Confederation on the 17th of September, 1846, very properly stated to consist in, "that both Duchies, with the exception of the position of Holstein as a Federal State, and of the Separate Assembly of States by the side of the social *status* of the Schleswig-Holstein Order of Knighthood ('Ridderskab'), have all public judicial relations in common, by similar common legislation and administration, in so far as the Constitutional peculiarities in each of the two Duchies do not make an exception (such as are provided for by section 4 of the common law)."

The peace of the Monarchy, on the contrary, would be, and is, especially shaken by the fact, that for a number of years, a party in the Kingdom has laboured for the incorporation of Schleswig as a measure for the accomplishment of which every means is energetically used. But how little such an undertaking leads to the welfare of the Monarchy has been proved by the last ten years, which instead of a conciliation between the stubborn national and political elements, have produced but an increasing bitterness and the deepest internal dismemberment of all public relations

While the States of the Duchy of Schleswig feel bound by the present solemnly to protest:

1. Against the Ordinance of October 2, 1855, continuing in force for Denmark and Schleswig, as well as against the legality of the Resolution of the Council of State (Rigsraad) during its last session, as far as the Duchy of Schleswig is concerned.

2. Against the legality of sections 1 to 4 of the Special Constitution for Schleswig, on which the States have not been consulted.

3. Against the legality of the Royal Patent of November 10, 1855, by which the sphere of action of the States has unconstitutionally been curtailed.

4. Against every decision respecting the position of the Duchy

only be secured, if with a view of finally settling the political relations of the Duchy of Schleswig to the other portions of the Monarchy, proposals suitable to the times, and based on the ancient privileges of the country, be communicated to the States, and if until the definite settlement of their relations, not even laws with reference to common affairs be issued without the sanction of the States of Schleswig.

H. RUMOHR, and 25 others.

No. 3.—Mr. Howard to Lord J. Russell—(*Received February* 27.)

My Lord, *Hanover, February* 24, 1860.

I took an opportunity while at Oldenburg of urging upon M. de Rössing, the Minister for Foreign Affairs, the expediency of the German Powers using moderation in their treatment of the Holstein question, and abstaining from all extreme measures against Denmark, so as to avoid further European complications, or the ntervention of foreign Powers.

His Excellency replied that the Grand Duke being a Holstein Prince, and feeling strongly on the subject, I must be prepared to nd Oldenburg favourable to a decisive course of action on the part f the Diet in respect to the rights of the German Duchies; but iat the Oldenburg Government had not, nevertheless, associated iemselves to the proposals of the Hanoverian Government which ent further than those made by Prussia, and already, as I would aware, adopted by the Diet. No foreign Power, his Excellency served, would have a pretext for interference as long as the inter- ntion of Germany was confined to the German Duchies, and not tended to Schleswig. I have, &c.

rd J. Russell. HENRY F. HOWARD.

. 4.—Sir A. Malet to Lord J. Russell.—(*Received February* 28.)

xtract.) *Frankfort, February* 25, 1860.

With reference to my despatch of the 20th instant, I beg to lose a translation of the report presented to the Diet on the 18th ant, relating to the question of the Duchies.

d J. Russell. A. MALET.

(*Inclosure.*)—*Extract from the "Journal de Francfort."*

Francfort, le 19 *Février*, 1860.

On écrit à "l'Indépendance Belge :"

Dans sa séance d'hier, la Diète Germanique s'est occupée de ire des Duchés de Holstein-Lauenburg et de la publication des ocoles des séances. Voici le résultat de cette délibération ès le Protocole officiel.

" Dans l'affaire des Duchés, les 'Comités réunis' ont proj
la haute Diète :

" 1. D'annoncer, par la voie de l'Ambassadeur Royal D
pour les Duchés, au Gouvernement Royal, que la Diète—

(*a.*) Trouve que le Gouvernement Danois, par ses derniers
vis-à-vis des Duchés de Holstein-Lauenbourg, principalemen
les propositions faites aux Etats des dits Duchés, et par le rej
et simple des propositions des Etats, a manqué aux obligation
la Résolution de la Diète du 11 Février, 1858, § 2, litt. *a* e
imposées au Gouvernement Danois, et que ces obligations do
être accomplies dans le plus bref délai ; mais que pourta
Diète—

" (*b.*) Par égard pour les explications du Gouvernement D
données dans la note de l'Ambassadeur Royal du 2 Nove
1859, ajournera encore l'exécution sommaire résolue le 12
1858.

" La Diète joint à cette déclaration—

" (*a.*) La condition que, jusqu'à ce que l'état légal con
tionnel soit définitivement établi, comme il a été promis en
et 1852—

" (1.) La Déclaration Royale du 28 Janvier, 1858, soit st
ment maintenue dans toutes les affaires qui concerneront les in
généraux et spéciaux des Duchés ; que

" (2.) Pour le maintien du droit de ces provinces apparten
la Confédération, toutes les propositions de lois qui seront sou
au Conseil Suprême Danois, soient en même temps soumises
Etats, et qu'aucune loi, principalement en matière de financ
soit promulguée dans les Duchés, tant qu'elle n'aura pas
l'assentiment des Etats, la Diète ne reconnaissant aucune v
légale à des Ordonnances rendues en contradiction avec

No. 5.—Sir A. Malet to Lord J. Russell.—(Received March 13.)

(Extract.) *Frankfort, March 9, 1860.*

I HAVE the honour to acquaint your Lordship that the Diet voted yesterday the adoption of the Report of the Committee on the Danish Duchies question adverted to in my despatches of the 20th and 25th of February.

The only vote besides that of M. de Bülow recorded against the adoption was that of the Representative of Luxemburg, Baron Scherf. The Envoy of the Saxon Duchies, M. de Fritsch, gave a separate vote, expressing the wish of the Government of Saxe-Coburg that the affairs of Schleswig should be taken up by the Diet in connexion with those of Holstein.

The Danish Envoy, M. de Bülow, expressed, as I learn, at consi-lerable length, the objections of his Government to conceding all he demands of the Diet, but made the proposal of drawing up a roject of Constitution, which, though demanded by the Diet for he last two years, the Copenhagen Cabinet has hitherto always vaded; without, however, having ever given the demand a decided jection.

The Diet has now required, in reference to the proposal of the anish Government, that men of confidence chosen by the Provincial ates should enter into deliberation with an equal number of the uncil of the Kingdom (Reichsrath), that the proposed men of nfidence should not have to sit with the existing members of the uncil of State, but with an equal number of persons specially ointed by the Danish Government.

This proposal is, I understand, unacceptable to the Copenhagen binet, but it is hoped the difficulty may be turned by the perspec-e of the Project of Constitution, or terms of connexion for the chies to the Monarchy, which the Danish Envoy has now ounced it to be the intention of his Government to elaborate.

I am informed that, at the same time that his Excellency M. de Bülow made this communication, he gave the Assembly to under-d that his Government, in assenting to this exigency and to the ect being laid before the Diet, did not intend it to be subject to revision of the Diet, but that it should be looked upon in the re of an ultimatum.

The mention of Schleswig will have an unpleasant effect at nhagen, but as it met with no support in the Diet the incident not necessarily be noticed.

J. Russell. A. MALET.

No. 6.—Sir A. Malet to Lord J. Russell.—(Received March 13.)

MY LORD, *Frankfort, March 12, 1860.*

WITH reference to my despatch of the 20th February, I have the honour to transmit to your Lordship an extract from the "Journal de Francfort," containing a translation of the protest made by the Danish Envoy, on the occasion of the Report of the Committees on the Danish Duchies' question being laid before the Diet.

I have, &c.

Lord J. Russell. A. MALET.

(*Inclosure.*)—*Extract from the "Journal de Francfort."*

Francfort, le 10 Mars, 1860.

VOICI, d'après la "Gazette de Cassel," la traduction de la protestation faite par l'Envoyé Danois dans la séance du 18 Février dernier de la Diète Germanique à l'occasion des propositions présentées par les Comités réunis sur les affaires constitutionnelles du Duché de Holstein :

"Comme dans les propositions du Comité qui viennent d'être lues, surtout en les rapprochant des délibérations dont elles ont été précédées, on trouve maintenant encore, après que toutes les dispositions constitutionnelles pour les Duchés de Holstein et de Lauenbourg contre lesquelles la Diète a réclamé par sa résolution du 11 Février, 1858, ont été suspendues, et qu'on a en partie pris, en partie offert des mesures constitutionnelles préliminaires pour amener un état de choses tenant compte de tous les droits et de tous les intérêts, qu'en outre des garanties correspondant aux constitutions spéciales ont été données avec empressement pendant la période de transition, comme on trouve encore dans ses propositions, disons-nous, la voie d'exécution contre Sa Majesté le Roi de Danemark mise en perspective, et qu'on y réclame en même temps pour les Etats du Holstein et du Lauenbourg, pendant ce provisoire comme aussi pour la décision éventuelle de toutes les questions constitutionnelles, une faculté délibérative très etendue et dépassant leur précédente compétence, l'Envoyé Royal, en se référant à ses déclarations antérieures, doit d'autant plus se borner pour le moment à une protestation provisoire, que son Gouvernement croit devoir conserver l'espérance que la Haute Diète Germanique ne voudra pas lui rendre impossible la voie qui, d'après la conviction du Gouvernement Royal, est la plus pratique pour amener une entente définitive sur la base de la Résolution Fédérale du 29 Juillet, 1852.

"Si, en outre, la compétence Fédérale devait être réclamée à l'égard de la représentation éventuelle qui serait accordée aux parties de la Monarchie n'appartenant pas à la Confédération Germanique

dans les délibérations de délégués sur une constitution commune, l'Envoyé ne peut s'empêcher de protester maintenant déja, au moment où les propositions sont présentées et au nom de son auguste Souverain, contre une telle réclamation.

"Il doit en même temps réserver à son Gevernment tous ses droits ainsi que les déclarations et explications qu'il pourrait juger ultérieurement nécessaires.

No. 7.—Sir A. Malet to Lord J. Russell.—(Received March 17.)

My Lord, *Frankfort, March 14, 1860.*

With reference to my despatch of the 9th instant, I have the honour to inclose a translation of the Resolutions adopted by the Diet in the sitting of the 18th February in the question of the Danish Duchies.

I have, &c.

Lord J. Russell. A. MALET.

(Inclosure.)—Extract from the "Journal de Francfort" of March 9, 1860.

L'Assemblee a procédé au vote sur les propositions présentées dans la séance du 18 Février par les Comités réunis sur les affaires constitutionnelles des Duchés de Holstein et Lauenbourg, et les a adoptées, sur quoi l'Envoyé Royal Danois pour ces Duchés a fait insérer au Protocole une déclaration et protestation.

La Diéte Germanique a en conséquence résolu:

1. De faire savoir au Gouvernement Royal de Danemark, par intermédiaire de son Envoyé pour les Duchés de Holstein et de auenbourg, et, tout en se référant aux explications contenues dans Rapport du Comité respectif, inséré au Protocole de la 6e séance la Diète du 18 Février (s. 58), que l'Assemblée Fédérale:

(*a.*) Ne trouve toujours pas que le Gouvernement Royal, par les esures qu'il a prises jusqu'ici, en particulier par les propositions umises à l'Assemblée des Etats Holsteinois et par le rejet pur et nple de celles de ces Etats, ait rempli les obligations déterminées r la Résolution Fédérale du 11 Février, 1858, s. 2, lettres *a* et *b*, qu'elle doit pour cela insister sur leur prompt accomplissement; e toutefois:

(*b.*) Eu égard aux déclarations du Gouvernement Royal con- ues dans la note du 2 Novembre, 1859, de son Envoyé pour le lstein et le Lauenbourg, elle ajournera encore pour le moment écution des mesures conformes aux lois Fédérales et déjà décrétées la Résolution du 12 Août, 1858, destinées à obtenir la réalisation la susdite Résolution. Elle y rattache cependant:

(*c.*) La condition que, jusqu'au rétablissement d'un Etat Con- utionnel définitif, répondant aux promesses de 1851 et 1852;

(1.) La teneur de la proclamation Royale du 28 Janvier, 1852, serve exclusivement de règle dans la fixation des objets qui doivent être considérés comme affaires communes ou affaires spéciales; que,

(2.) Afin de sauvegarder l'égalité de droits des pays Fédéraux Allemands avec les autres parties de la Monarchie pour la durée du provisoire, tous les projets de lois soumis au Conseil du Royaume le soient également aux Etats des Duchés de Holstein et de Lauenbourg, et qu'aucune loi concernant des affaires communes, surtout en matière de finances, ne soit promulguée pour les Duchés tant qu'elle n'aura pas reçu l'assentiment des Etats de ces pays, attendu que la Diète ne saurait considérer comme obligatoires pour les Duchés des ordonnances rendues en contradiction avec cette condition.

2. D'annoncer, en outre, au Gouvernement Royal que la Diète ne s'opposera pas à l'intention de ce Gouvernement de convoquer des Délégues des diverses parties de la Monarchie pour des délibérations sur une Constitution commune définitive, à la condition que,

(*a.*) Conformément au principe des stipulations de 1851 et 1852, ces délibérations aient lieu par des Délégués des représentations légales particulières de toutes les parties du pays; que

(*b.*) Ces déliberations soient amenées avec la plus grande promptitude possible, afin que cette mesure incidente ne cause pas un retard inutile dans le rétablissement d'un état de choses constitutionnel légal, et que

(*c.*) Cette discussion, cela va sans dire, ne préjudicie en aucune manière aux négociations avec les Etats des Duchés de Holstein et de Lauenbourg.

3. De charger les Comités réunis de faire à la Diète, d'après leur avis et si c'est nécessaire, un rapport ultérieur sur l'exécution

Assembly of the Monarchy) should be appointed, which Commission was to be in communication with the Government and discuss with it the plan to be adopted.

The Report of the Committee of the Diet, while admitting the idea of a Mixed Commission, insists that instead of its members being selected out of the Rigsraad, they should be taken from the different Provincial Assemblies.

The argument of the Danish Government is that the Confederation has no authority to dictate in what manner a Commission which is to discuss the internal arrangements for the Danish Monarchy is to be composed, and that their doing so is an undue interference in a matter appertaining exclusively to the sovereign rights of Denmark. If it is adopted they withdraw their proposal of a Commission altogether, and prefer treating directly with the Holstein States.

With regard to the demand of the Confederation that all new laws respecting the general affairs during the state of transition should, in their application to Holstein, be dependent on their being accepted by the Holstein States, the Danish Government give as a reason for its refusal the practice established in similar cases in different parts of Germany where Provincial States exist; and refer to the Royal Patent issued last year for the regulations to be observed in regard to the financial contributions of the Province as a sufficient guarantee for its interests.

I have, &c.

Lord J. Russell. A. PAGET.

(Inclosure.)—Communication made by the Danish Envoy at the (Traduction.) *Frankfort Diet, March* 8, 1860.

L'ENVOYE est instruit par son Gouvernement à voter déclarant qui suit:

Par la note du 2 Novembre de l'année passée le Gouvernement du ni a informé la Haute Diète des mesures que dans ses efforts pour ter une Constitution commune embrassant les Duchés de Holstein Lauenbourg il se proposait de prendre dans un avenir prochain à de préparer un arrangement définitif des rapports Constitutionels de la Monarchie. Bien que d'après les différentes phases cette affaire avait parcourues, il fût jugé nécessaire, pour amener arrangement définitif, d'entrer dans de nouveaux pourparlers les Etats Holsteinois, le Gouvernement du Roi ne pouvait que sidérer comme salutaire à l'avancement de cette œuvre de prér ces nouvelles délibérations par la consultation des Délégués de es les parties de la Monarchie, élus partie par l'Etat Holsteinois, ie par le Conseil-Général.

Le Rapport présenté par les Comités dans la sixiéme séance en

accordant aux intentions du Gouvernement du Roi l'appréciatio
qui leur est due, a pourtant cru devoir proposer à la Haute Diè
de ne pas s'opposer au plan que le Gouvernement du Roi lui a com
muniqué, à moins que les délibérations en question, conformémen
au principe des transactions de 1851 et 1852, n'aient lieu avec de
Délégués des représentations spéciales des différentes parties de l
Monarchie.

Autant que le Gouvernement du Roi est disposé de tout temp
à accepter le conseil des hauts membres de la Diète relativement
la participation du Duché de Holstein à une délibération puremen
préparatoire et ne préjugeant en rien les délibérations ultérieure
autant lui est-il impossible de reconnaître un arrêté de la Diè
qui en forme d'une condition se prononce sur la manière dont le
parties de la Monarchie qui n'appartiennent pas à la Confédératio
doivent être représentée dans une telle assemblée, et qui en de
mandant que le "Rigsdag" Danois et les Etats du Slesvig nomm
les Délégués porte atteinte aux rapports intérieurs de ces partie
de la Monarchie et à l'autonomie de Sa Majesté.

Bien que le Gouvernement du Roi, vis-à-vis de la conditio
formulée dans No. II, Lit. A, des conclusions du Rapport, ne puis
se considérer comme obligé à abandonner la voie qu'il s'était tracé
et qui, d'après sa conviction aurait abouti, on ne saurait toutefoi
se cacher l'influence qu'un arrêté pris en conformité de la propositio
pourrait exercer sur la possibilité de convoquer l'Assemblée projetée
Il n'est en effet que trop probable que les Etats du Holstein y ver
raient un motif de refuser de nommer des Délégués, et quel qu
soit l'illégitimité d'une telle résistance aux yeux du Gouvernement
celui-ci pourtant dans ses efforts pour calmer les esprits préférerai
d'abandonner le plan qu'il avait conçu, plutôt que de laisser éclate
une collision.

toire. Tout en déplorant qu'une entente eût été rendue plus difficile par l'adoption de ce point du Rapport, le Gouvernement du Roi se livrerait au ferme espoir qu'on finirait dans le Holstein par comprendre ce qu'exigent les intérêts communs.

Dans cet état de choses il est à prévoir, ce qui est reconnu également dans le rapport, que même avec la meilleure volonté de tous côtés un temps assez long s'écoulera avant qu'on parvienne à s'entendre définivement.

C'est pourquoi Sa Majesté par la Patente Royale du 28 Septembre de l'année passée, communiquée à la Haute Diéte, a régle pour le provisoire, en conformité avec le droit historique et avec les égards dûs aux circonstances, les rapports constitutionnels du Holstein relativement aux affaires communes. Non seulement il a été décidé par cette patente que pour ce qui regarde les affaires communes, des lois définitives sur des matières qui avant la publication de l'Ordonnance du 11 Juin, 1854, ont été du ressort des ci-devant Etats Provinciaux consultatifs du Holstein ne pourraient être promulguées pour ce Duché avant que ces Etats aient été consultés, mais la patente contient en outre des nouvelles dispositions, dépassant les limites antérieurement posées par la loi à la compétence des Etats qui offrent sous le rapport financier des garanties en tout point efficaces pour le Duché de Holstein.

Tout en reconnaissant aussi sur ce point la sollicitude du Gouvernement du Roi le rapport des Comités propose à la Haute Diète de prononcer, que pour la durée du provisoire tous les projets de loi qu'on soumettrait au Conseil-Général, devant aussi être soumis aux Etats du Holstein et du Lauenbourg, et qu'aucune loi sur des affaires communes, nommément sur des questions financières, ne pourra être publié pour les Duchés, a moins que leurs Etats n'y aient donné leur consentement, la Diète se réservant de considérer toute Ordonnance qui contrairement à cette disposition aurait été publiée comme non obligatoire pour les Duchés.

Le rapport des Comités s'est efforcé de démontrer le fondement légal de la proposition susmentionnée, et il fait ressortir à cet effet non seulement des dispositions des Ordonnances antérieurs sur les Etats Provinciaux, d'après lesquelles toutes les affaires de la Monarchie sans aucune restriction tomberaient sous le domaine des Etats, mais aussi la Patente Royale du 28 Janvier, 1852, des expressions de laquelle il résulterait qu'une voix délibérative eût été accordée ou en tout cas promise aux Etats.

En tenant compte des expressions dont se servent à cet égard les Ordonnances sur les Etats Provinciaux, ainsi que de l'interprétation qui dans la pratique leur a été donnée de tout temps nommément dans la Monarchie Danoise, mais aussi dans les autres

Etats, spécialement dans ceux de l'Allemagne où des institutio
analogues des Etats Provinciaux subsistaient, il ne serait
difficile de prouver que la compétence consultative accordée
Etats Provinciaux n'a nullement embrassé un domaine si vaste
celui qui d'après des principes constitutionnels revient à
Assemblée Législative, et que nommément, pour ce qui rega
l'emploi des revenus et des moyens publics de l'Etat, aucune
operation, moins encore une influence décisive, n'a été ni accordé
exercée de fait par les Etats Provinciaux.

La Patente Royale du 28 Janvier, 1852, ne promet non plus
Etats provinciaux une voix délibérative dans toutes les affaire
l'égard desquelles une co-opération consultative, soit de droit, soit
fait, leur avait été attribuée. Au contraire la promesse est expres
ment appliquée aux seules affaires que d'après le nouvel arrangem
établi par l'Ordonnance susmentionnée, les différentes parties d
Monarchie pourraient plus spécialement appeler les siennes, prop
ou spéciales, non pas communes ("eigenthümliche oder besonde
also nicht gemeinschaftliche") (voir l'Annexe I ad Mémoire
23 Février, 1857, inséré au Protosole de la Diète, p. 734). L'
donnance sur la Constitution du Duché de Holstein, en date
11 Juin, 1854 (Ordonnance qui au moins à cet égard n'a été l'ob
d'aucune attaque), n'accorde non plus une plus grande compéte
aux Etats, mais certes une telle extension des attributions des Et
aurait été tout-à-fait incompatible avec l'intention avouée dans
Patente Royale du 28 Janvier 1852 (pour ce qui regarde le Duc
de Holstein approuvée par l'arrêté de la Diète du 29 Juillet de
même année), d'établir une Constitution commune pour les affai
générales de la Monarchie.

Si donc la demande formulée dans le rapport des Comités

Constitution du 2 Octobre, 1855, pour ce qui regarde ces mêmes Duchés, et rentré incontestablement pour ces Duchés dans la plénitude de sa souveraineté qu'il exerce par des Ministres exclusivement responsables pour cette partie de la question envers Sa Majesté. En conséquence le Roi a non-seulement pendant la dernière session du Conseil-Général pleinement assuré l'indépendance des Duchés de Holstein et de Lauenbourg vis-à-vis des résolutions du Conseil-Général, mais encore par une patente spéciale a-t-il fixé avant l'ouverture de la session le budget du Duché de Holstein pour le suivant exercice biennal relativement aux affaires communes. Cette pleine souveraineté le Roi persistera à revendiquer vis-à-vis du Conseil-Général, et il saura s'en servir librement et sans être détourné par aucune influence quelconque, pour reconnaître et assurer les droits et les intérêts de ses sujets dans les Duchés de Holstein et de Lauenbourg.

Dans ces circonstances, et en présence des garanties considérables qui ont déjà été données, le Gouvernement du Roi ne peut pas se persuader de la nécessité de prendre des dispositions ultérieures pour régler l'état du provisoire. Pour ce qui est spécialement de l'arrangement proposé dans le rapport des Comités, il faut encore faire valoir l'impossibilité que lui opposerait dans la pratique déjà la base d'organisation convenue de part et d'autre. Il ne serait en effet pas possible sans de nouvelles garanties et des dispositions particulières de faire dépendre la marche et le développement des affaires communes du consentement de deux Assemblées délibérant chacune séparément, d'autant moins que l'une de ces Assemblées est organisée et élue uniquement en vue d'affaires purement provinciales, ce qui ne peut manquer d'exercer une influence décisive sur sa composition, son autorité, et son action, et que, par conséquent, le Gouvernement, ne posséderait pas vis-à-vis d'elle toutes les garanties et les moyens d'influence qu'on a considérés comme nécessaires vis-à-vis du Conseil Général bien qu'organisé spécialment en vue des affaires communes.

D'après un examen consciencieux, le Gouvernement du Roi ne peut donc nullement reconnaître ni comme fondé dans le droit, déterminé par les lois fondamentales de la Confédération et par les traités spéciaux de la Diète, ni comme exécutable dans la pratique la prétention qu'une voix délibérative soit accordée dans les affaires communes aux Etats de Holstein pendant le provisoire. Faire dépendre l'entrée en vigueur de la Constitution définitive du consentement de ces Etats serait tout aussi impossible déjà par la raison que jusqu'à présent les Etats ne peuvent en tout cas prétendre qu'à une co-opération consultative, comme il a été reconnu de tout temps dans les négociations actuelles (voir par exemple le rapport présenté en date du 14 Janvier, 1858,; vide Protocole, p. 49, où il

s'agit de consultation et d'avis des Etats Holsteinois, relativement à la Constitution commune, et le mémoire présenté par l'Envoyé de Hanovre, en date du 29 April, 1858 ; vide Protocole, p. 464, où la voix délibérative qui reviendrait aux Etats de Lauenbourg se trouve directement opposée au droit plus limité des Etats Holsteinois). Il est toutefois sous-entendu, comme parfaitement conforme à ce qui vient d'être opposé, que le Gouvernement du Roi, et à l'égard des lois communes sur lesquelles les Etats Holsteinois, d'après la Patente Royale du 23 Septembre de l'année passée, auront à donner leur avis, et à l'égard de l'arrangement définitif des rapports constitutionnels, ne manquera de prendre le conseil des Etats en due considération, autant qu'il soit compatible avec les intérêts et les droits bien entendus tels que le Roi dans sa juste sollicitude pour tous ses sujets saura les reconnaître et les concilier entre eux. En conséquence, la position dûe aux Duchés appartenant à la Confédération, dans leur union avec les autres parties de la Monarchie, ne sera pas perdue de vue ; mais toujours est-il qu'une égalité de droits et une indépendance de chaque partie. telles qu'elles ont été mises en avant pour la première fais dans la conclusion du rapport, ne dérivent d'après l'opinion du Gouvernement ni de la Patente Royale du 28 Janvier, 1852, ni de l'arrêté de la Diète du 29 Juillet de la même année, et à cet égard le Gouvernement du Roi doit se référer spécialement au contenu et aux termes des dits actes.

Quant à la demande exprimée dans le Rapport des Comités que la Patente Royale du 28 Janvier, 1852, pendant le provisoire soit décisive pour fixer la séparation des affaires communes d'avec celles spéciales au Holstein, le Gouvernement du Roi n'aurait pas hésité à accéder à ce point, si celui-ci avait été formulé en forme d'une proposition séparée, d'autant moins que dans tout cas qui est essentiel il coincide avec la disposition y relative de la Patente du 23 Septembre de l'année passée. Mais le Gouvernement du Roi regrette de ne pas pouvoir adopter formellement ce point de conclusions en tant qu'il se présente comme partie intégrante de l'ensemble.

Enfin, si la note du 2 Novembre de l'année passée n'a pas, comme l'observe le Rapport des Comités, fait mention du Duché de Lauenbourg, la raison en est uniquement que cette partie de la Monarchie, et d'après son développement historique, et d'après ses rapports spéciaux, se prête mieux à conserver sa position distincte qu'à plusieurs égards il occupe dans la Monarchie, et qui sans doute est aussi conforme à ses désirs. On avait en outre d'autant moins motif pour mentionner ce Duché dans la dite note qu'on avait tout lieu de croire que sur ce point les vues du Gouvernement exposées à une époque antérieure avaient été reconnues comme satisfaisantes et parfaitement explicites par la Haute Diète (voir le Rapport du

Comité en date du 29 Juillet, 1858, Protocole, p. 940). L'Envoyé peut donc se borner pour le moment à appeler l'attention de la Diète sur les explications données à cette époque.

Bien que le Gouvernement du Roi, d'après ce qui vient d'être exposé, ne soit pas en état d'accéder aux conclusions du Rapport des Comités, il se croit néanmoins fondé à exprimer l'espoir que la Haute Diète ne se décidera pas à intervenir d'une manière à entraver et troubler le calme développement des Rapports, qui ne sauraient être menés à bonne fin que par l'emploi de la plus grande prudence et d'un scrupuleux égard aux circonstances. Après que les différentes dispositions constitutionnelles attaquées par l'Arrêté de la Diète du 11 Février, 1858, ont été abrogées pour ce qui concerne les Duchés de Holstein et de Lauenbourg, par la Patente Royale du 6 Novembre, 1858, le Gouvernement du Roi s'est constamment occupé de la tâche si difficile dans les circonstances actuelles de rétablir dans son entier l'union constitutionnelle entre les Duchés de Holstein et de Lauenbourg avec le reste de la Monarchie. Les délibérations avec les Etats Holsteinois, malgré les efforts incontestables du Gouvernement du Roi, n'ayant pas abouti au résultat désiré, on avait décidé de prendre des mesures pour faire une nouvelle et—comme on avait tout lieu de croire—une plus heureuse tentative. Si toutefois la Haute Diète croit de son devoir d'y porter obstacle, Sa Majesté, ainsi qu'il a été mentionné plus haut, est disposée quand dans le courant de l'année de nouvelles élections auront eu lieu dans le Holstein, à entrer dans de nouveaux pourparlers avec les Etats sur un projet de constitution revisé. C'est la voie par laquelle le Gouvernement du Roi croit pouvoir parvenir à l'entente si sincèrement désirée tout en tenant compte des bases légales et des droits reconnus, et tout en pesant mûrement ses propres droits et devoirs. Mais en signalant cette voie, le Gouvernement pourra pour ce qui concerne le procédé exécutoire mis en avant de nouveau dans le Rapport, renoncer pour le moment à motiver plus amplement sa protestation présentée dans son vote du 12 Août, 1858 (Protocole, 995), contre la légitimité d'un tel procédé, d'autant plus que depuis cette époque l'état des choses, par suite de l'abrogation des dispositions constitutionnelles attaquées, est essentiellement changé de manière que par cela même une exécution ne pourrait à présent encore moins être justifiée par les lois fédérales. Tout en se réservant ainsi pour le moment à réserver en général ses droits après la législation Fédérale, on doit pourtant appeler l'attention sur l'appréciation scrupuleuse des circonstances, avec laquelle la Diète a procédé dans d'autres questions de cette nature, bien qu'incontestablement la solution de celles-ci présentât bien moins de difficultés que l'organisation d'une Monarchie, dont la partie la plus considérable se trouve au dehors de la Confédération.

En s'appuyant sur la déclaration antécédente et sur l'état de choses connu, le Gouvernement du Roi finira donc par se rapporter à l'appréciation impartiale de la Haute Diète pour les meilleurs moyens d'obtenir l'arrangement le plus salutaire pour toutes les parties de la Monarchie et nommément pour le vrai bonheur des Duchés et d'ecarter ainsi une camplication si dangereuse et si regrettable sous tant de rapports. Aussi à l'occasion du vote prochain l'Envoyé du Roi est instruit à sauvegarder expressément les droits et les décisions ultérieures de Sa Majesté, en se référant à ses déclarations et ses protestations antérieures, et en invoquant nommément les Articles LIII, LVI, LVII de l'Acte Finale de Vienne.

No. 10.—*M. de Bille to Lord J. Russell.*—(*Received March* 26.)

My Lord, *Londres, le* 25 *Mars*, 1860.

J'ai l'honneur, par ordre de mon Gouvernement, de communiquer à votre Excellénce la ci-jointe traduction de la déclaration que le Représentant de Danemark présenta dans la séance de la Diète Germanique du 8 Mars,* lors du vote sur les propositions relatives aux Duchés de Holstein et de Lauenbourg, qui avaient été soumises par les Commissions réunies, chargées de cette question.

Mon Gouvernement m'a en même temps chargé de signaler à l'attention de votre Excellence la gravité de l'état actuel de cette question, et combien les prétentions exagérées et injustifiables de la Diète menacent l'indépendance du Danemark comme Etat Souverain ; Etat n'ayant d'autres obligations envers la Diéte que celles qui découlent des liens Fédéraux des deux Duchés de Holstein et de Lauenbourg avec la Confédération Germanique.

Je me réserve à cet égard de présenter verbalement quelques observations à votre Excellence, et j'ai en conséquence l'honneur de prier votre Seigneurie de vouloir bien m'accorder une entrevue à cet effet.

J'ai, &c.

Lord J. Russell. TORBEN BILLE.

No. 12.—*Lord J. Russell to Mr. Paget.*

(Extract.) *Foreign Office, April* 11, 1860.

It is much to be desired that the Danish Government should take some steps to conciliate the German Powers. A liberal and separate Constitution for Schleswig would, it appears to Her Majesty's Government, conduce to this end.

If a conciliatory plan were proposed, fulfilling all that the Danish Government have promised Her Majesty could be advised to recommend it to the Diet with some prospect of success.

I have, therefore, to instruct you to speak to M. Hall in the

* Page 1191.

above sense, informing him that Her Majesty's Government earnestly desire the termination of this struggle, which grows in bitterness in proportion to the length of its duration.

We trust that Denmark will go the utmost length in the way of conciliation. The interests and feelings of the German inhabitants of Schleswig are deeply concerned in the settlement of this question.

A. Paget, Esq. J. RUSSELL.

No. 13.—*Lord Bloomfield to Lord J. Russell.*—(*Rec: April* 30.)

(Extract.) *Berlin, April* 28, 1860.

A PETITION, having for its object "to call upon the Government for an inquiry as to whether the conditions agreed to in the negotiations with the Danish Government of the years 1851 and 1852 in respect of the Duchy of Schleswig, have been fulfilled, and if not fulfilled to solicit the Government to take the necessary measures to obtain this fulfilment," comes on for discussion next week in the House of Representatives.

A question more pregnant with important consequences, both as regards the external policy of Prussia in particular and that of the German Confederation at large, could hardly, at the present moment, have been brought before the forum of the only popular Assembly deserving the name in Germany.

Hitherto the negotiations respecting the fulfilment on the part of Denmark of the engagements entered into by the Danish Cabinet towards the Confederation have been restricted to the Duchies of Holstein and Lauenburg. This restriction of the question to territories forming integral portions of the Confederation has necessarily confined it within the limits of a German question only, of a home question in fact, with which the other members of the European family were only indirectly concerned.

On the other hand, the engagements taken by Denmark towards the Confederation, as regards the Duchy of Schleswig, though not less clear and binding in their nature than those taken as regards the other two Duchies, have necessarily assumed the nature of an international compact, and any measure taken by the Confederation to obtain the fulfilment of those engagements, with respect to a country not forming part of the Confederation, must, from an equal necessity, assume an international character. Probably reckoning upon this fact, and upon the proverbial incapacity of the German Diet to carry on any active foreign policy of its own, trusting withal to the sympathy which, in the former phases of this conflict, Denmark has received from other European Powers, the Danish Cabinet has been at little pains to keep up even the appearance of a fulfilment of their engagements, and it is unfortunately a notorious

fact that none of the guarantees given to Germany to respect the German nationality in Schleswig, to place the two races in that Duchy upon a footing of equality, and to keep intact all the bonds not of a political nature which united that Duchy to Holstein, have been respected by Denmark.

The patriotic spirit which undoubtedly characterized the struggle of the Danish Monarchy against the Confederation in 1848 has, as is too generally the case where different races are brought into a forced political contact, manifested itself since the Peace in a spirit of systematic hostility against the German element in a Duchy which, from the point of view taken by the political party in power at Copenhagen is, or at least must eventually become, a Danish dependency, and the energy and passion which, when opposed to an overpowering antagonist, could not but command, independently of the political merits of the question, admiration and sympathy, have, since they have been directed against a weak and comparatively helpless minority, degenerated into a persecution for which the Danish Cabinet can hardly claim, on the part of Europe, the sympathy which was before bestowed upon it.

This persecution which has of late, at the time of, and since the meeting of the Schleswig States at Flensburg, assumed a more violent form, has excited throughout Germany a strong feeling of resentment against the Danish Cabinet, and of sympathy for the sufferers, and the petition about to be discussed in the Prussian Chamber is the expression of this feeling.

As the petitioners have wisely limited themselves to a solicitation of an inquiry as to the bare and literal fulfilment of engagements solemnly entered into by the Danish Cabinet, there can be no doubt as to the position which the Government will assume towards the petitioners. The inclosed translation of the statement made by Baron Schleinitz in the Committee of the Prussian House of Representatives sufficiently indicates what that position will be.

Lord J. Russell. BLOOMFIELD.

(*Inclosure.*)—*Statement of Baron Schleinitz in the Committee of the House of Representatives, respecting the Schleswig Petition.*

THE Minister for Foreign Affairs then spoke to the following effect:

The Government fully participate in the views and the sympathies expressed in the petition for Schleswig.

As regards the matter itself he must remark as follows:

The general result of the negociations carried on in the years 1851 and 1852 between the Confederation and the Danish Cabinet, may be described under three heads:

1. The non-incorporation of Schleswig into Denmark.

2. The recognition of an independent position invested with equal rights ("Selbststandige und gleichberechtigte stellung") for the different parts of the Monarchy, consequently for Schleswig also, within the limits of the United Kingdom ("Gesammt Monarchie").

3. Equal rights for the German and the Danish nationality in Schleswig.

These rightful claims have hitherto remained unfulfilled. The state of things actually existing in Schleswig in many respects approaches, as regards its practical results ("in seinen wirkungen"), to an incorporation, and the German nationality is notoriously less favourably treated than the Danish.

Consequently the Confederation has the right flowing from the negotiation above adverted to, to insist on the fulfilment on the part of Denmark of the promises given by her. That the Confederation has hitherto not taken this step, and that it has contented itself during the past years in drawing the question of Holstein and Lauenburg only before its forum, is a policy for which it is manifest that there were reasons of great weight; however, opinions may be divided as to the expediency of such a separation of the two questions.

The question, in so far as it was restricted to Holstein and Lauenburg only, stood upon the basis of German Dietal Law. The Confederation was here the arbiter, and the King-Duke was bound to give ear to its decrees. Every influence on the part of foreign Powers was excluded. In the question of Schleswig, on the other hand, the Confederation was a party concerned: here, it had to deal with Denmark as between State and State, and every difference on this field necessarily assumed an European character. The European Powers had in the matter of Schleswig been formerly very unfavourably disposed towards Germany. Induced by the conviction that a material difficulty in the way of a favourable arrangement of the relations of Schleswig lay in the former attitude of the Cabinets of the Great European Powers, the present Government of Prussia has from the first moment of its accession endeavoured to the best of its ability to remove this difficulty, and in these endeavours, which it has reason to believe have not remained altogether without result, it will unremittingly persevere.

What the Confederation may think right to do, it must itself decide. That, as far as the Prussian Government is concerned, in influencing a Federal decision it will be led by the sincerest sympathy, for the weal of Schleswig hardly requires to be here specially promised.



entrer dans le domaine de ses débats les affaires du Duché Danois de Slesvig, et à la date du 4 de ce mois elle a pris une Résolution "par laquelle en transmettant au Gouvernement du Roi les pétitions soumises à la Chambre, elle exprime la confiance que celui-ci, de concert avec ses confédérés, ne négligera rien pour procurer enfin aux Duchés de Slesvig et de Holstein la pleine jouissance de leurs droits outragés."

Si le Gouvernement du Roi a pris connaisance de ces débats avec une bien grande surprise c'est avec une véritable douleur qu'il voit l'attitude que le Cabinet Prussien a affectée dans cette occasion.

Le Gouvernement de Prusse n'a pas trouvé un seul mot pour désapprouver le ton de ces débats si inconvenant et si profondement blessant pour une Puissance amie et alliée, pas une seule rectification ou une simple expression de doute à l'égard des outrages à la vérité qui s'y sont produits. Bien au contraire son organe, le Ministre des Affaires Etrangères, a formellement déclaré que le Gouvernement "partage complètement les vues qui s'énoncent dans la pétition."

Vis-à-vis des empiétements de la Chambre des Députés, le Gouvernement Prussien a laissé à l'écart des principes incontestables du droit des gens Européen et les actes formels, provoqués par la Prusse elle-même, par lesquels l'Allemagne il y a quelques années avait pleinement reconnu qu'il n'existe entre la Confédération et le Duché de Slesvig aucune relation soit politique soit internationale.

Loin de là, le Ministre des Affaires Etrangères, au nom du Gouvernement, a accueilli avec faveur une résolution établie sur des appréciations toutes contraires, et il n'a pas même hésité à proclamer hautement la fidélité "éprouvée et jamais violée" envers le Souverain légitime de sujets qui—nous regrettons d'être obligés de le rappeler—ont manqué à leur foi jurée et se sont soulevés en révolte ouverte contre leur Prince.

L'usurpation de l'Assemblée n'est pas atténuée par la circonstance que la résolution embrasse également le Holstein, attendu que les rapports de la Confédération avec ce Duché ne sauraient entraîner aucun droit à s'ingérer dans les affaires d'une autre partie quelconque de l'indépendante Monarchie Danoise. Et même pour ce qui est du Duché de Holstein, le Gouvernement Danois ne peut voir dans la résolution qu'une anticipation de délibérations encore pendantes à la Diète de Francfort; anticipation d'autant plus déplorable qu'elle ne pourra que trop facilement avoir pour conséquence de compromettre le succès des discussions que le Gouvernement s'est proposé de provoquer avec les Etats Holsteinois sur la position définitive à donner au Duché dans la Monarchie.

C'est contre cette conduite de la Chambre des Députés Prus-

sienne, et en particulier contre l'attitude du Gouvernement du Roi de Prusse, que le Gouvernement de Sa Majesté tient à faire toutes ses réserves. Il proteste hautement contre l'immixtion dans les affaires intérieures d'une partie de la Monarchie Danoise qui se trouve en dehors de l'action du droit Fédéral, et il signale dès-à-présent l'influence funeste que l'anticipation des discussions pendantes au sein de la Diète de Francfort au sujet de la position constitutionnelle du Holstein pourra exercer sur l'issue de cette question.

Je vous invite, M. le Baron, à donner lecture et à laisser copie de cette dépêche au Ministre des Affaires Etrangères.

J'ai, &c.

Le Baron Brockdorf. C. HALL.

No. 25.—*Mr. Howard to Lord J. Russell.*—(*Received June* 4.)

(Extract.) *Hanover, June* 1, 1860.

Baron Scheele, the Danish Chargé d'Affaires, who has his permanent residence at Hamburg, but who came here in order to assist at the celebration of the King of Hanover's birthday, has taken the opportunity which has thus presented itself of communicating to Count Platen the despatch addressed by his Government on the 16th ultimo, to the Danish Minister at Berlin, protesting against the attitude assumed by Baron Schleinitz in the recent discussions in the Prussian Chamber of Deputies relative to the affairs of Schleswig, and against all interference in the internal concerns of that part of the Danish Monarchy not subject to the action of the Federal law.

Count Platen expressed, on this occasion, his regret that the Prussian Chamber of Deputies should have occupied itself with the question of Schleswig, which was a European and not a German one, but pointed out at the same time to Baron Scheele how little in harmony with the spirit of the times was the treatment by the Danish Government of that Duchy, and how much an alteration in it would contribute to the satisfactory settlement of pending questions. Count Platen endeavoured, at the same time, to impress upon M. de Scheele how important it was for the interest of Denmark to come to an arrangement with Germany relative to the German Duchies of Holstein and Lauenburg, and remarked that the period, viz., at the beginning of next year, when the Danish Government meant to submit to the States of Holstein their proposals for a final settlement of the general Constitution of the Kingdom, appeared to him to be somewhat remote.

I may add that in my communications with Baron Scheele, I strongly pressed upon him the expediency of his Government abandoning the system of repression which is now pursued in

Schleswig with such evil consequences, and which forms so great a contrast to the liberty enjoyed in Denmark Proper, and trying the effect of conciliatory measures.

I observed that even if the promises which the King of Denmark had made in his Patent of the 28th of January, 1852, to grant to the German and Danish nationalities in Schleswig equal rights and protection, did not give the German Confederation the right of interference in the affairs of that Duchy, His Majesty had not the less the moral obligation of carrying them out.

Lord J. Russell. HENRY F. HOWARD.

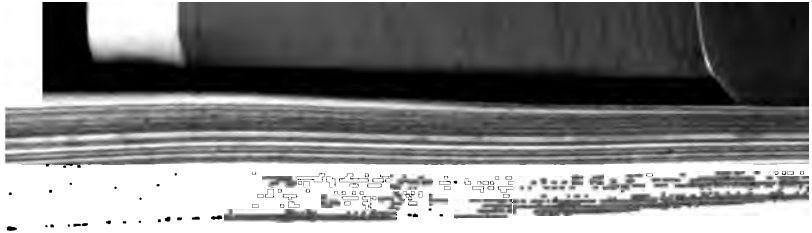
No. 27.—Baron Schleinitz to M. de Balan.—(Communicated to Lord J. Russell by Count Bernstorff, June 6.)

MONSIEUR, *Berlin, le 29 Mai*, 1860.

LES débats provoqués récemment dans notre Chambre des Députés par quelques pétitions relatives au Duché de Slesvig ont engagé le Cabinet Danois à adresser à son Représentant près notre Cour une depêche que M. le Baron de Brockdorff, d'ordre de son Gouvernement, après m'en avoir donné lecture, a laissée entre mes mains, et dont j'ai l'honneur de vous transmettre ci-jointe une copie.

En parcourant cette pièce, vous comprendrez, Monsieur, et vous partagerez sans doute tout l'étonnement que nous a dû causer une démarche aussi insolite et aussi peu justifiée par les circonstances qui y ont donné lieu.

D'abord il nous serait peut-être permis de demander de quel droit M. Hall croit pouvoir censurer les discussions Parlementaires d'un pays étranger, qui doivent conserver nécessairement un caractère purement domestique aussi long-temps qu'aucun acte extérieur et diplomatique n'est venu leur donner une suite pratique. Comme Ministre d'un Etat Constitutionnel M. Hall devrait être le premier à rendre hommage à un principe inséparable de la liberté de discussion qui forme un des droits fondamentaux de toute Assemblée Représentative. Par suite du même principe le ton des débats Parlementaires chez nous comme en Danemark ne saurait être soumis à aucun autre contrôle que celui dont l'exercice, d'après les dispositions du règlement, fait régulièrement partie des attributions du Président de l'Assemblée. Si par conséquent le Cabinet du Prince Régent doit décliner toute responsabilité à cet égard, il lui semble étrange que le ton des débats de notre Chambre des Députés ait provoqué une plainte précisement de la part d'un Ministre qui ne peut avoir oublié les attaques violentes et assurément peu mesurées auxquelles les Gouvernements Allemands et la Confédération Germanique toute entière ont été maintes fois en butte dans les Assemblées Représentatives de son propre pays. Sans doute nous



dernier pays, la Confédération Germanique n'ait pas le droit de demander que les engagements internationaux dont le Danemark s'est chargé envers elle par rapport au Slesvig restent à tout jamais sans aucun effet? que le Danemark, parce que le Duché de Slesvig ne fait pas partie du corps Germanique, soit libre de remplir ou de ne pas remplir les stipulations survenues entre lui et la Confédération relativement au Duché de Slesvig?

Je doute que M. Hall, ainsi que le contenu de sa dépêche pourrait le faire croire, ait en effet voulu établir ou soutenir une thèse aussi monstrueuse et aussi contraire aux premières notions du droit public.

C'est à tort aussi que M. Hall voit dans la Résolution de notre Chambre des Députés une anticipation des délibérations encore pendantes à la Diète de Francfort. Je lui ferai observer à ce sujet d'abord que l'affaire du Slesvig n'a pu encore être portée devant la Diète Germanique, et ensuite que le Gouvernement Prussien a expressément déclaré par mon organe devant la Chambre des Représentants, qu'il n'entendait nullement et d'aucune façon préjuger les déterminations futures de la Diète Fédérale.

Si M. Hall me reproche enfin d'avoir hautement proclamé la fidélité "éprouvée et jamais violée" des sujets Allemands du Roi de Danemark, je ne puis sans doute pas contester au Gouvernement Danois le droit d'envisager la conduite des Duchés sous un point de vue qui diffère essentiellement du nôtre, mais je défie M. Hall, et qui que ce soit, de citer un fait qui soit de nature à prouver que même au plus fort de la lutte les droits sacrés du Prince légitime aient jamais été méconnus ou mis en question seulement par les populations de ses Duchés Allemands.

D'après ce qui précède, les réserves et la protestation par lesquelles M. Hall termine sa dépêche n'ont, à nos yeux, aucune raison d'être, et nous les considérons comme nulles et non avenues, tout en regrettant vivement que le Cabinet Danois ait cru devoir les formuler et nous ait mis par là dans la nécessite d'entrer dans une polémique, à laquelle, dans l'intérêt de nos bons rapport avec le Danemark, auxquels, pour notre part, nous attachons un bien haut prix, nous aurions infiniment préféré de pouvoir renoncer.

Je vous invite, Monsieur, à vouloir bien donner lecture et remettre copie de la présente dépêche à M. le Ministre des Affaires Etrangères de Sa Majesté Danois. Recevez, &c.

M. de Balan. SCHLEINITZ.

No. 28.—*Memorandum communicated to Lord J. Russell by Count Bernstorff, June* 11, 1860.

Londres, Juin, 1860.

Le Gouvernement Prussien admet parfaitement que pour ce qui

concerne le Slesvig la position du Gouvernement Danois envers la Confédération Germanique est autre que par rapport aux parties de la Monarchie Danoise qui appartiennent au territoire Fédéral; mais en même temps il est incontestable que le Danemark a pris aussi à l'égard du Slesvig des engagements positifs et internationaux envers la Confédération, et que ces engagements n'ont pas été remplis jusqu'ici.

Dans les négociations des années 1851 et 1852 le Danemark a donné l'assurance positive:

1. De ne pas incorporer le Duché de Slesvig dans le Royaume de Danemark, ni de faire aucune démarche tendante à ce but, mais au contraire d'accorder aussi à ce pays une position indépendante et égale à celle des autres parties de la Monarchie dans la constitution générale; et il a promis:

2. D'accorder à la nationalité Allemande dans le Slesvig les mêmes droits et la même protection qu'à la nationalité Danoise.

Ad 1. L'état constitutionnel de ce Duché ressemble dans tous les cas beaucoup à une incorporation, et l'organisation de la constitution générale est toujours encore inachevée.

Ad 2. Le systéme de l'oppression violente de la langue Allemande dans l'église et les écoles y est notoire.

Tandis que dans le Royaume la liberté de la presse et le droit d'association et de pétition existent dans l'étendue la plus absolue, ces droits sont opprimés violemment et d'une manière si dure en Slesvig qu'il ne peut être le moins du monde question d'une égalité à cet égard entre les deux parties de la Monarchie. Les habitants de la partie Allemande du Slesvig sont entièrement soumis à l'arbitraire administratif d'autorités qui s'efforcent d'agir dans un sens spécifiquement Danois. Les pétitions qui ont été adressées à la dernière Assemblée des Etats du Slesvig contre cette oppression ont été punies par la persécution, l'incarcération, et d'autres peines infligées à leurs auteurs.

Abstraction faite du droit que la Confédération Germanique a acquis, par des engagements internationaux, de s'opposer à ce système d'oppression, tous les Gouvernements amis doivent désirer qu'il cesse, et l'Angleterre en particulier agirait, on le pense, non seulement dans son propre intérêt et conformément à ses principes, mais elle acquerrait un grand mérite et préviendrait des conflits menaçants, si elle voulait employer tout le poids de son influence auprès du Gouvernement Danois pour l'engager à changer de système envers le Slesvig.

No. 29.—Baron Manderström to Count Platen.—(Communicated to Lord J. Russell by Count Platen, June 14.)

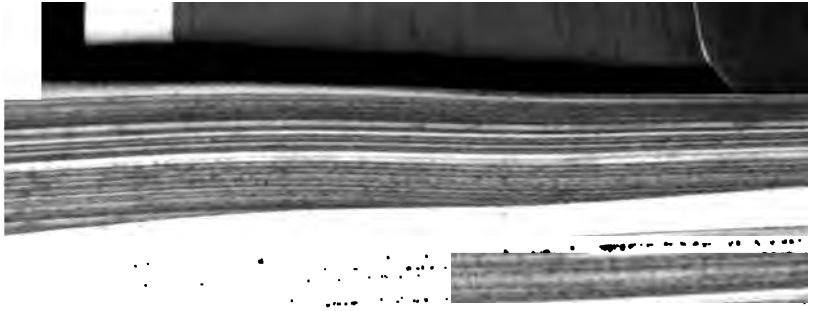
M. LE COMTE, *Stockholm, le 29 Mai*, 1860.

IL nous est connu que le Gouvernement Danois a fixé l'attention de celui de Sa Majesté Britannique sur la discussion qui a eu lieu dernièrement dans les Chambres Prussiennes à l'égard des relations entre le Danemark et l'Allemagne, et surtout sur la manière dont M. le Ministre des Affaires Etrangères de Prusse s'est exprimé relativement aux prétendus droits de l'Allemagne de régler les conditions administratives du Duché de Slesvig. Le Gouvernement Danois ayant sans doute avec fermeté, quoiqu'avec modération, protesté contre ces prétentions injustifiables, je n'ai donc point à entrer dans le fond de la question, examiné d'ailleurs bien des fois dans des communications faites d'ici à la Mission du Roi à Londres pendant le cours de plus de 14 ans qu'a duré cette divergence entre le Danemark et la Confédération Germanique.

Il me suffit donc de constater ici, et de vous engager, M. le Comte, à bien clairement expliquer au Gouvernement Britannique que les opinions et les sentiments du Roi Charles XV à l'égard de cette affaire sont toujours les mêmes que ceux qu'avait manifestés son père, et que Sa Majesté est décidé à suivre la politique que lui a tracée son auguste prédécesseur. Je dois donc par ordre spécial du Roi vous inviter, M. le Comte, à appuyer chaudement auprès du Gouvernement de Sa Majesté Britannique toute démarche du Cabinet de Copenhague, faite dans le but de s'affranchir des empiètements et des projets d'agrandissement de la part des Puissances Allemandes Confédérées.

Pour guider votre langage à cet égard, je n'ai qu'à me référer à ma dépêche du Octobre, 1858. La situation est toujours à peu près la même, seulement elle s'est aggravée encore par les prétentions ouvertement proclamées de la Prusse et de l'Allemagne sur le Slesvig. Je ne puis que vous répéter ce que je disais alors. Le Duché est et doit être considéré comme absolument en dehors de la compétence de la Confédération Germanique. Toute immixtion en ce qui concerne les affaires intérieures de ce Duché constitue à notre avis une intervention indue d'une Puissance étrangère contraire non-seulement aux droits des gens, mais aussi aux intérêts les plus sacrés du Nord de l'Europe.

Nous ne saurions admettre plus que nous ne l'avons fait dès l'origine de ce dissentiment, une guerre de conquête de la part de l'Allemagne, et nous sommes toujours fondés à croire que la Grande Bretagne ne regarderait point une pareille éventualité d'un œil indifférent. Le maintien de l'intégrité de la Monarchie Danoise, garantie par les plus grandes Puissances de l'Europe, et formant l'un des principaux éléments de l'équilibre Européen, ne saurait



conduct, and develope the plan by which they hope to satisfy Germany, and allay the just anxieties of Europe.

On our part, Her Majesty's Government will use their utmost influence to prevent any violent or premature action on the part of Germany. It appears to them that the question admits of a pacific settlement, if proper means are used to arrive at it.

I am, &c.

W. G. S. Jerningham, Esq. J. RUSSELL.

No. 31.—*Mr. Paget to Lord J. Russell.*—(*Rec. June* 18.)

My Lord, *Copenhagen, June* 15, 1860.

I have the honour to inclose to your Lordship herewith copy of a further note which has been addressed by M. Hall to the Danish Minister at Berlin relative to the discussions which took place in the Prussian Chambers on the affairs of Schleswig.

I have, &c.

Lord J. Russell. A. PAGET.

(*Inclosure.*)—*M. Hall to Baron Brockdorff.*

M. le Baron, *Copenhague, le* 10 *Juin*, 1860.

La dépêche ci-jointe que M. de Balan vient de me communiquer m'oblige de revenir sur la dépêche que j'ai eu l'honneur de vous adresser sous la date du 16 du mois passé.

Tout en rendant, avec M. de Schleinitz, tout l'hommage possible à la liberté de la discussion Parlementaire, je suis pourtant d'avis que cette liberté comme toute autre a ses limites, et je ne peux certainement pas reconnaître le "caractère purement domestique" de débats dont l'object unique a été de critiquer et de blâmer les actes et l'administration intérieure du Gouvernement d'un pays étranger. Néanmoins je ne m'étais nullement proposé de censurer les discussions Parlementaires de la Chambre des Députés Prussionne. Si j'ai fait mention du ton et des tendances de ces débats, ma dépêche montre clairement, je le crois, que j'entendais uniquement faire ressortir par là l'attitude que le Gouvernement Prussien avait cru pouvoir prendre dans cette occassion, en approuvant, tantôt par son silence, tantôt en paroles expresses, les vues et les prétentions énoncées.

Je ne puis connaître, il est vrai, les données que M. le Ministre des Affaires Etrangères possède sur la situation de Slesvig—situation que de l'aveu même du Ministre, il est extrèmement difficile pour un Gouvernement étranger de constater de loin d'une manière satisfaisante. Mais quelles qu'elles soient et quel que sôit d'allieurs le point de vue sous lequel le Ministre envisage la prétention de l'Allemagne à s'ingérer dans les affaires d'une province Danoise qui n'appartient pas à la Confédération, je suis sûr que partout en Europe

on aura partagé l'étonnement et compris la douleur que nous avons éprouvés à voir le Gouvernement Prussien accueillir avec une faveur si marquée cette démonstration de la Chambre contre une Puissance alliée et amie. Et ce sentiment pénible n'est pas affaibli par les expériences de notre propre histoire Parlementaire, qui loin de présenter des analogies de débats pareils montrent au contraire que dans nos Assemblées Représentatives on a toujours fait preuve d'une grande modération à parler des Etats étrangers, et on y chercherait en vain l'exemple " d'attaques violentes et peu mesurées" contre une Puissance alliée et amie.

Quant à la réalité de la question M. le Ministre a bien voulu reconnaître que la Confédération Germanique pas plus que tout autre Gouvernement n'a en principe le droit de s'ingérer dans les affaires intérieures de l'indépendante Monarchie Danoise, et que par conséquent non plus dans celles du Duché de Slesvig. Mais en même temps il revendique pour la Diète le droit d'examiner si et jusqu'à quel point l'état de choses existant dans ce Duché est conforme à ce que l'Allemagne en vertu des arrangements convenus avec le Danemark en 1852 serait en droit d'exiger en faveur du dit Duché. Mais l'arrangement convenu en 1852 c'était l'Arrêté Fédéral du 29 Juillet, dans lequel la Diète sur l'invitation de l'Autriche et de la Prusse reconnaissait que les dispositions du règlement des affaires de la Monarchie, en tant qu'elles concernaient les affaires des Duchés de Holstein et de Lauenbourg, et en tant qu'elles relevaient d'après leur nature de l'examen et de la décision légitime de la Confédération, étaient conformes aux droits et aux lois de celle-ci. C'est là l'arrangement définitif et entier entre la Confédération et le Danemark, et il s'occupe exclusivement des deux Duchés Allemands; par aucun mot il ne fait mention du Slesvig—et de raison !

Mais peut-être le Ministre a-t-il eu en vue les négociations antérieures de 1851. Bien qu'il ne soit certes pas permis de déduire de ces dernières ce qui ne se trouve pas dans l'Acte Final, je suivrai le Ministre même sur ce terrain. En examinant ces négociations on y trouvera à côté d'engagements formels pris au sujet du Holstein l'expression des intentions Royales relativement à la position à donner au Slesvig dans l'ensemble de la Monarchie, nommément celle de ne pas procéder à l'incorporation du Duché dans le Royaume, par conséquent de lui laisser une administration et une législation séparées pour les affaires spéciales, et de rétablir les anciens Etats exerçant l'autonomie provinciale. Mais ces intentions Royales se signalent expressément comme émanant du libre arbitre du Souverain, et c'est d'ailleurs un fait incontestable qu'elles ont trouvé une réalisation immédiate sans qu'aucun changement ait été porté plus tard à l'autonomie du Slesvig pour les affaires spéciales de ce Duché. Par conséquent lorsque le Ministre prétend qu'il n'est que trop

notoire que les droits consacrés par les arrangements de 1852 continuent d'être constamment refusés au Slesvig, non-seulement je dois nier cette prétendue notoriété, mais je repousse de la manière la plus formelle l'existence même du fait.

J'avais appelé l'attention sur l'influence funeste que l'attitude du Gouvernement Prussien dans cette occassion pourrait trop facilement exercer sur les délibérations encore pendantes au sujet de la position constitutionnelle du Holstein, surtout en vue des discussions que le Gouvernement s'est proposé de provoquer avec les Etats du Holstein. Sans me permettre de revoquer en doute l'attention que le Ministre a certainement bien voulu prêter a ce que j'ai écrit, je dois pourtant faire l'observation qu'il l'a singulièrement mal interprété. J'avais parlé du Holstein, et le Ministre a bien voulu me dire que l'affaire du Slesvig n'a pas encore été porté devant la Diète ; j'avais parlé des discussions prochaines des Etats du Holstein, et le Ministre me répond que le Gouvernement n'entend nullement préjuger les déterminations futures de la Confédération.

Lorsque le Ministre a cru devoir maintenir les éloges prodigués la fidélité éprouvée et jamais violée des sujets Allemands du Roi en défiant qui que ce soit de citer un fait qui soit de nature à prouver ue même au plus fort de la lutte les droits sacrés du Prince légitime ient jamais été méconnus ou mis en question seulement par les opulations de ses Duchés Allemands, je n'entrerai pas dans les étails de ce sujet pénible. Une lutte armée soutenue pendant des nées contre le Souverain parait être la violation la plus complète la plus décidée des droits sacrés du Prince légitime. C'est là rtes le point de vue du Gouvernement du Roi, mais je doute fort ie ce soit une vue particulière à nous.

Je ne puis donc que maintenir les réserves de ma dépêche du 16 i mois passé, qui malheureusement ne se trouvent que trop justies par les circonstances qui y ont donné lieu. C'est à regret que me suis vu dans la nécessité de devoir prendre ces réserves, et c'est n malgré moi que je suis entré dans la polémique qui en a été la te. Le Gouvernement du Roi attache un si haut prix aux bons ports avec la Prusse, qui auront toujours un intérêt si essentiel ir le Danemark, que certainement il désire ne pas prolonger une cussion qui pourrait porter atteinte à l'heureuse entente entre les ix Gouvernements.

Veuillez, M. le Baron, faire lecture de cette dépêche au Ministre Affaires Etrangères, et lui en laisser copie s'il le désire.

J'ai, &c.

Baron Brockdorff. C. HALL.

No. 25.—Baron Schleinitz to M. de Balan.—(Communicated to Lord J. Russell by Count Bernstorff, July 8.)

MONSIEUR, *Bade-Bade, le 29 Juin*, 1860.

M. LE BARON DE BROCKDORFF a bien voulu me communiquer une dépêche que M. Hall lui a adressée en date du 10 Juin, et que j'ai l'honneur de vous transmettre ci-jointe en copie.

M. Hall dans cette dépêche a cru devoir renouveler les protestations et les réserves qu'il avait déjà formulées dans celle du 16 Mai, et à laquelle j'ai répondu par l'office que j'ai eu l'honneur de vous adresser en date du 29 Mai dernier.

Je n'ai rien à retrancher des observations que j'ai consignées dans ma dépêche précitée, ni rien à y ajouter, et il me semble qu'une discussion plus prolongée sur ce sujet ne servirait qu'à envenimer les rapports des deux pays, sans contribuer en quoi que ce soit à aplanir les difficultés qui s'opposent à une solution satisfaisante de la question dont il s'agit.

Mais puisque M. le Ministre des Affaires Etrangères a pris à tâche de prouver que le Danemark n'a contracté aucune espèce d'engagement envers la Confédération Germanique par rapport au Duché de Slesvig, je n'ai cependant pu me dispenser d'exposer plus complétement la manière dont nous envisageons la nature et la portée des arrangements consentis à cet égard par le Gouvernement Danois et de consigner nos appréciations dans le Mémorandum Allemand que vous trouvez joint à la présente. Il servira, je n'en doute pas, à refuter entièrement l'argumentation de M. Hall.

En me référant en général au contenu de cette pièce, je crois pourtant devoir maintenir ici plus particulièrement encore la réserve que j'ai déjà exprimée de bouche à M. le Baron de Brockdorff, lorsque cet Envoyé m'a donné lecture de la dépêche de M. Hall du 13 de ce mois; réserve concernant la dénomination "Province Danoise," appliquée au Duché de Slesvig, et qui, selon nous, se trouve, en contradiction ouverte avec la position qui revient à ce pays de droit et en vertu de stipulations internationales.

Du reste, c'est à la Diète Fédérale qu'il appartient de préciser les droits qu'elle se croira autorisé à faire valoir en vertu des engagements pris par le Danemark, et nous ne prétendons nullement préjuger les résolutions quelle se verra dans le cas de prendre à cet égard.

Si M. Hall fait observer dans sa dépêche du 10 Juin que les délibérations des Assemblées Législatives du Danemark n'ont jamais présenté le spectacle d'attaques violentes et peu mesurées contre les Puissances Allemandes ou contre la Confédération Germanique, ma dépêche du 29 Mai indique assez clairement que nous n'attachons aucune importance particulière à des incidents de ce genre.

Aussi croyons-nous devoir nous abstenir de compulser les comptes-rendus des sessions parlementaires du Danemark depuis

1850, et de signaler toutes les sorties violentes auxquelles les Puissances Allemandes se sont trouvées en butte au sein des Chambres Danoises. Je me borne à appeler l'attention de M. Hall sur les débats qui ont eu lieu dans les deux Chambres Danoises depuis l'automne 1851 jusqu'au printemps 1852, et qui fournissent de nombreux exemples à l'appui de ce que j'ai avancé à ce sujet dans ma dépêche du 29 Mai.

Je vous invite, Monsieur, a donner lecture de la présente dépêche à M. le Ministre des Affaires Etrangères et de lui en laisser copie, ainsi que du Mémorandum, s'il vous en exprimait le désir.

Agréez, &c.

M. de Balan. SCHLEINITZ.

(*Inclosure.*)—*Memorandum.*

(Translation.)

THE Danish Minister for Foreign Affairs, in his despatch to Baron Brockdorff of the 10th June instant, advanced the following assertion :—that Denmark, in the negotiations of 1851 and 1852, contracted no obligations towards the German Confederation in regard to Schleswig.

The correspondence which took place in the months of December, 1851, and January, 1852, between Copenhagen, Vienna, and Berlin, indisputably prove the contrary.

His Majesty the King of Denmark, on the ground of Article IV of the Treaty of Peace of the 2nd July, 1850,* had sought the intervention of the German Confederation in order again to be put in possession of the Duchy of Holstein. By that very provision, as well as by Article XXVII of the Final Act of Vienna of the 15th May, 1820, this was dependent on the King's making known to the Confederation the measures to be adopted for the pacification of the country.

A first explanation which the Danish Government had given, on the 26th August, 1851, to the Courts of Berlin and Vienna, who were empowered by the Confederation for this matter, was considered by them insufficient for proceeding thereupon to re-establish the authority of the Sovereign.

Upon this the despatch of the Copenhagen Cabinet of the 6th December, 1851, was written. This document stated that legal guarantees for the adoption of future measures could not be demanded by Germany, nor ought they to be given by Denmark. But if the desire of the King were gratified by restoring the full sovereign authority, it might, indeed, be possible for him at a future time, which it was to be hoped would not be distant, to strengthen the moral guarantees which constituted the foundation of the

* Vol. XXXVIII. Page 99.

internal and external peace of the Monarchy. But such guarantees, by their essence and nature, could only be given of his own accord.

To this end the intentions of the King were more particularly developed in a separate annex of the despatch No 2, confidentially, with the addition that the King would not fail to carry them out eventually. These intentions were drawn up in definite items; they are of interest here only so far as they relate to Schleswig. It was said in this document:

"First. If, by consideration for the advice and wish of his High Allies, His Majesty resolves to govern not only the Duchy of Holstein but that of Schleswig also, for the present, as absolute King, with the co-operation of the deliberative Provincial States, this resolution, which as regards the Duchy of Schleswig is taken solely of his own perfect free power, by no means infers the intention of re-introducing the Provincial States' institution into the Kingdom of Denmark, setting aside the fundamental law adopted for the latter, and now in force; but with the object in view to introduce in a legal and constitutional way (that is to say, through the deliberative Provincial States of each of those Duchies for itself, and in reference to the Kingdom by the resolutions of the Diet, and in regard to Lauenburg, with the co-operation of the Ritterschaft and Landschaft), an organic and homogeneous constitutional union of all the parts of the country in one whole Monarchy.

"Secondly. As, on the one hand, the King has already promised, he now further declares, that no incorporation of the Duchy of Schleswig with the Kingdom shall exist, nor shall any steps be adopted with this view; so, on the other hand, His Majesty cannot agree to anything by which either an amalgamation of Schleswig and Holstein should now take place, or be eventually introduced, or generally any other or closer connection of these Duchies with each other, or between either of them and the Kingdom of Denmark, &c."

Under No. 3 it is then further said that the above principle is not opposed to the continuance of such connection between the two Duchies as might subsist between border lands having fundamentally similar territorial conditions, and with people under analogous circumstances in respect of their means of living, either such as is based upon the non-political institutions which appertain to both parts of the country, or such as affect the common social circumstances of certain classes.

Under No. 4 it is further expressed as a necessary requisition, that the Federal Diet should abstain from setting up any jurisdiction ("competenz-begründung") in or referring to the Danish Crownland of Schleswig.

On this occasion, however, the German Powers did not assent to the position taken up by the Danish Government, according to which the latter repudiated every obligatory promise.

In the reply sent from Vienna on the 26th December, 1851, to Copenhagen, it is said very definitely, "that with a view to hastening the winding up of this affair, we do not hesitate to declare, in regard to the intentions of His Majesty the King, now communicated to us, that on our side we cannot do this, except on the supposition that we have before us a declaration considered binding by its author, and therefore secured as to its execution.

"Satisfied, as we are, that the solution of the still remaining difficulties cannot continue long unaccomplished when once a material agreement upon the steps to be taken in relation hereto by the Danish Government shall have been entered into between the latter and the German Powers, we could hardly feel really any anxiety that in such a favourable case the Danish Government would hesitate to secure the actual execution of this step by a definite promise." The reply goes on to say, "After having, then, once more stated our point of view upon the whole question, we are glad to be able now to pronounce that we certainly perceive in the tenor of those resolutions a conciliatory accommodation of opposing views, such as is suited to the altered state of things.

"The statement which follows, taking, point by point, the annex 2 to the Danish despatch, explains the reasons for our assent, also the expectations we entertained of a corresponding execution the same.

In the annex of the despatch quoted, it it said:

1. "The Imperial Court sees with satisfaction the resolve of His Majesty the King of Denmark again to put in action the Provincial States Institutions *de jure* subsisting, not only in the Duchy of Holstein but in that of Schleswig also; and if His Majesty at present make known this intention, legally and constitutionally, that is to say, after consultation with the Provincial States of the said Duchies, to introduce an organic and identical constitutional union for all the parts of the country to one entire Monarchy, the Imperial Court can only look upon this intention of the King as directed to the fulfilment of an act which cannot be refused, &c.

'But His Majesty the Emperor, sincerely desirous of seeing the tranquillity and prosperity of the Danish Kingdom as soon as possible augmented by a definitive organization adapted to its requirements, confidently cherishes the hope that the Danish Government, by its efforts directed to this important end, will not show an exclusive preference to such institutions as have been conferred in recent years upon the Kingdom of Denmark Proper, but that it will have in view therewith, as the only safe guide, the permanent



and with the evacuation of Holstein at the same time, and the re-establishment of the full sovereign power in that Duchy, we would become security in the Federal Assembly for the accomplished union, and would at once look upon the new internal establishment of a union of the country under one ruler as sufficiently far advanced to make us participate in an international security for the integrity of the Monarchy through the recognition of a common succession."

The Danish Government did not hesitate to declare its assent to these overtures.

In reference to the assent given by Prussia to the Vienna despatch the Danish Minister of Foreign Affairs declared in his reply of the 29th of January, 1852:

"Under these circumstances it can but conduce to my especial satisfaction to make hereby, in furtherance of authority conferred on me from the highest quarter, the declaration that the King our gracious master acknowledges as being in coincidence with his own, that interpretation of the supreme intentions communicated to the Courts of Berlin and Vienna which is given in the despatch of the Imperial Court of Vienna of the 26th December of last year, and in the annex thereto, both generally and particularly also in reference to the non-incorporation of Schleswig with the Kingdom."

The Royal Proclamation issued the day before, under date the 28th January, 1852, was at the same time communicated to the two Powers. It repeats the promise of a common constitution for affairs common; and then it promises "to confer upon the Provincial States of the Duchy of Schleswig, as well as upon those of Holstein, such a constitutional development that each of the said Duchies, in regard to the affairs which have hitherto appertained to the sphere of action of its deliberative Provincial States, shall retain a States-representation, with power to vote resolutions" ("beschliessenden Befügniss").

"The proposed law to be elaborated with that object for the Duchy of Schleswig," continues the Proclamation, "will especially contain the necessary provisions for procuring a perfectly equal settlement and effectual protection to the Danish and German nationalities in the said Duchy."

The Copenhagen despatch of the 29th January, 1852, continues:—"The tenor of this supreme Proclamation will, as the Royal Government may confidently hope, most fully satisfy every just expectation; and as the assent expressed on our part, through the above declaration, to the views of the Imperial Cabinet communicated to the Prussian Government, is decidedly manifested, there can be no doubt that the form in which we have chosen to express the Royal intentions will appear perfectly satisfactory to

the two Courts, so as no longer to delay the execution of th measures contemplated on their part."

At the close of the despatch the exchanged declarations a signed expressly as "an Agreement concluded."

The two German Powers were satisfied with this: they with drew the Federal troops from the Duchy of Holstein in reply to th promise given, and they placed the full governing power, in thi part of the country, in the hands of His Danish Majesty.

By the agreement thus fulfilled on the German part, the Germa Confederation obtained, in regard to Schleswig, the right to deman from Denmark:

1. Non-incorporation of Schleswig with Denmark.

2. The grant of an independent position, with equality of right in the whole Monarchy, to Schleswig, as to the other parts of th territory.

3. Like rights for the German and Danish nationalities in Schleswig.

The Minister Hall, according to the tenor of his despatch o the 10th June instant, now is of opinion that he can repudiate the above explained obligations of the Danish Government, by the assertion that a Final Act of the negotiations that have taken place exists in the Federal Resolution of the 29th July, 1852; that under such circumstances it is not allowable to found on preceding negotiations a claim which is not grounded upon the Final Act, and that the Federal Resolution says not a word about Schleswig.

But this reason is in obvious contradiction with the circumstances.

First of all, the whole of the above account of the historical course of the negotiations proves that the declarations exchanged in the despatches of the 6th and 26th December, 1851, and the 29th January, 1852, were not restricted to the limits of the preceding negotiations, but, as the Copenhagen Cabinet itself expressed in the last-named despatch, constituted a concluded agreement, which was forthwith, on the German part, carried into effect in favour of Denmark, and which binds the Danish Court to a like fulfilment on its part.

Further, the drawing up of a Final Act upon the negotiations transacted, of which the Minister Hall speaks, has not really taken place; at least the Federal Resolution of the 29th July, 1852, is not equivalent to such act.

This Resolution refers expressly to the preceding motion of Prussia and Austria. But this motion again is essentially based upon the Historical Report of the two Powers previously sent, and it can only be correctly interpreted in connection therewith. But that Report, in referring to the Royal Proclamation of the

28th January, 1852, brings forward those very points in relation to Schleswig as special obligations incurred by Denmark, which are described in the above narration as the result of the exchange of despatches several times mentioned. It can, therefore, by no means be asserted that the negotiations of the Diet of the 29th July, 1852, make no mention of Schleswig.

In the session of that day there was no question of an Agreement then first to be made. The mission of Prussia and Austria was rather, according to the wish expressed by the Copenhagen Cabinet in the despatch of the 29th January, 1852, only to represent an agreement already made in order to operate its acceptance by the Diet.

After sending in a brief historical review of the action which the two Powers had developed, in virtue of the mission entrusted to them, the Deputies of Austria and Prussia declared as follows:

"The Supreme Proclamation of His Majesty (the King of Denmark), of the 28th January last, is laid before the High Federal Assembly by the Legation of Denmark and Holstein-Lauenburg." This followed shortly after:) "The Deputies of Austria and Prussia, on their part, are instructed to declare that this Proclamation, in such of its provisions as refer to the questions in dispute between Denmark and the German Confederation, contains the expression of the understanding which the exalted Courts acting in the name of the Confederation have agreed to with the Danish Government."

Then entering into an explanation upon details, they observe, in continuation, word for word:

"Perfectly equal and efficient protection is assured to the German and Danish nationalities in the Duchy of Schleswig."

And further:

"In the recognition of the independent and equally-privileged position of the different constituent parts of the Monarchy, no one which is subordinate to or incorporated with another, the Proclamation of the 28th January agrees particularly with the earlier Royal Proclamation of the 14th July, 1850,* in which a promise was made that there should be no incorporation of the Duchy of Schleswig with the Kingdom of Denmark."

The agreements come to were of course subject to the laws and rights of the Confederation, and thereby liable to the Constitutional appeal and decision of the Diet, only so far as they had reference to the territories appertaining to the provinces of the Confederation, that is to say, Holstein and Lauenburg. In respect of Schleswig, the question regarded only agreements of an international character, and the adjustment of the disputed claims set up in reference hereto

* Vol. XLI. Page 951.

by Holstein. It was therefore only in strict harmony wi
state of things, that Prussia and Austria, in the motion they b
forward, gave expression to such distinction. They asked,
true, for the acceptance, the recognition of the adjustment whi
been made of the disputes hitherto subsisting, in their whole
but that the same should be in harmony with the laws and ri
the Confederation, only so far as the resolutions made in t
should refer to the Duchies of Holstein and Lauenburg
according to the state of the case, as they were subject to th
stitutional revisal, and resolutions of the German Confederat

In accordance herewith, the Federal Assembly, in its ses
the 29th July, 1852, then fully resolved, in exact conformit
the motion, to recognise, as being in harmony with the la
rights of the German Confederation, the provisions of the
mation issued by His Majesty the King of Denmark and D
Holstein and Lauenburg, on the 28th January last, so far
relate to the affairs of the Duchies of Holstein and Laue
and as, according to the state of the case, they are subject
Constitutional revisal and resolutions of the German Confede
and therefore to grant the reserved definitive acceptance of
justment of the disputes hitherto subsisting between Denma
the German Confederation, which has been operated b
Majesty the King, in concurrence with the Governments of
and Prussia, acting in the name of the Confederation."

No. 36.—Mr. Paget to Lord J. Russell.—(Received July

My Lord, *Copenhagen, July 3*

I have the honour to acknowledge the receipt on the 1st
of your Lordship's despatches dated the 20th and 27th of Ju

Lauenburg and Denmark Proper, into one Corporate Monarchy by legal and constitutional means. This intimation, in so far as it regarded Holstein and Lauenburg, was accepted as satisfactory by Austria and Prussia, and afterwards by the Diet.

As a consequence of the understanding thus arrived at, His Danish Majesty issued a Royal Patent on the 28th of January, 1852, announcing the decision which he had taken, which was to be carried out on the principle of "equality and independence" for each portion of the Empire.

A General Constitution for the whole Monarchy was accordingly drawn up on this basis, and promulgated ("octroyée") in the month of October, 1855, but the Duchy of Holstein refused to admit its validity because of its not having been submitted to the Provincial States previously to its promulgation. It was also stated, as a reason for its non-acceptance, that it did not contain the guarantees for "equality and independence" in the general representation, promised in the Royal Patent, and the views of the Duchy were set forth on this subject.

The objections of Holstein, as belonging to the Confederation, were supported by the Diet on the ground of the promulgation in the manner above stated being an infringement of an Article of the Final Act of the Congress of Vienna; and the result of the controversy between the Danish Government and the Diet on this question was brought to an end by the abrogation of the Constitution in its application to Holstein and Lauenburg.

This took place in the month of November, 1858, the Danish Government being with great difficulty brought, by the advice of England and France, to yield the point. The only infringement, therefore, of any Federal Act would appear to have been removed by the step thus taken.

The Danish Government then submitted to the Provincial States of Holstein a project of Constitution for their consideration and observations. The project submitted was the self-same Constitution which had just been annulled, and which is now in force in the other parts of the Monarchy. The result of the deliberations of the Holstein States was a counter-project, considered on all hands to be inadmissible and impracticable. Thus, therefore, a satisfactory solution for the main difficulty, namely, how to reconcile the ideas of Holstein respecting "equality and independence," with a common representation, with what was due to the other parts of the Monarchy, was as far removed as ever; but in the meantime it was essential to provide, at all events, for the position which the Province was to occupy until such time as a definitive agreement should be arrived at. The Constitution had been abolished; consequently the Representatives of Holstein could not appear in the

General Assembly of the Monarchy ("Rigsraad") which was about to meet. If measures voted by this body, without the participation of Holstein Deputies, were applied to this Duchy, they would most certainly have been resisted as illegal, and the inevitable result would have been to have brought the Danish Government into a worse difficulty than ever with the German Confederation.

The course adopted, therefore, was to issue, a few days before the meeting of the "Rigsraad," in the month of September of last year, a Royal Patent placing the Duchy of Holstein temporarily under the direct authority of the King, and fixing the amount of the contribution of the Duchy towards the general expenses of the Monarchy. Shortly after this, the Danish Representative at Frankfort was instructed to inform the Diet of the steps which had been taken, and to state that, with a view of arriving at a definitive arrangement, the Danish Government proposed that a Commission, to be chosen out of the "Rigsraad" and the Holstein Provincial States, should be named, and treat with the Government in Copenhagen.

This proposal was declined by the Diet, for the reasons which I had the honour to report to your Lordship at the time, and the consequence is that the Duchy of Holstein now remains, as above stated, under the direct and absolute authority of the Sovereign.

In order to make this sketch of the existing state of things as concise as possible, I have purposely avoided entering into details which your Lordship will find in the correspondence addressed by my predecessor and myself to the Foreign Office.

I now come to the question of Schleswig, and I must begin by saying that I am aware of no engagement taken by Denmark towards Austria and Prussia, which can be said to have been actually violated, although it may be a question of appreciation how far the Danish Government acts in a liberal spirit in the sense of the obligations it has undertaken, not indeed towards the German Powers, but towards its own subjects and in the face of Europe.

The only positive engagement entered into by Denmark towards Austria and Prussia, was that it would not incorporate Schleswig or do anything which would tend towards that end (vide despatches to Danish Envoys at Berlin and Vienna, December 6, 1851).

Schleswig, like Holstein, has a separate Constitution and Provincial States, and the Danish Government meets all accusations of attempts to incorporate the Duchy, by pointing to these guarantees for its independence. The promises with regard to placing the two nationalities, German and Danish, on an equal footing and granting to each the same "powerful protection," are to be found in the Royal Patent of the 28th January, 1852, above alluded to; but this was an engagement undertaken as an act of sovereign will on the

part of His Danish Majesty, and cannot in any way be considered as binding in an international point of view, or as giving the right to any foreign Power, German or other, to interfere, except in the way of friendly remonstrance, respecting the manner in which it is fulfilled. That there is much to be said on this subject there can be no doubt, and that the effect of some of the existing laws, as well as the manner in which they are carried out, is severely felt by the German portion of the community is equally certain.

The laws to which I would especially call your Lordships' attention are those relating to forced confirmation in the Danish language, forced system of private education, revision of the electoral lists, and prohibition of meetings, even for scientific purposes. The latter is a recent enactment, and, at the time, was strongly remonstrated against by my predecessor.

It may be well to explain, with regard to the electoral lists, that any person's name may be struck out who has been accused of a crime and not acquitted, and advantage is not unfrequently taken of this power to strike out the names of those who, without having positively transgressed any law, have subjected themseves to police proceedings for their political conduct, or, in other words, for their known German opinions.

These are some of the causes for the feeling of irritation and hostility which prevails in the Duchy, and furnish in some degree the materials for the agitation which the Danish Government complains is kept up by its adversaries. Their removal could not fail, I think, to produce a calming and beneficial effect, and would not be productive of any of the results—such as Germanizing the Duchy, and eventually tending towards its reunion with Holstein, &c.—which the Danish Government pretend to anticipate.

I must guard myself, however, against being understood to say that I think the removal of the grievances alluded to would be of itself sufficient to satisfy the German party in the Duchies, or the German Confederation. To do this thoroughly would entail a subversion of the existing organization of the Monarchy, by reverting to the state of things before 1848, and re-establishing the former political union between Schleswig and Holstein; an arrangement to which no Danish Government could be brought to agree, even if it could be urged to do so. But without having recourse to this extreme measure, I am of opinion that it is in the power of the Danish Government to adopt others which, without in any way endangering the existing order of things in the Monarchy, could not fail to produce the most satisfactory results, and would place the Danish Government beyond the reach of accusations as to the non-fulfilment of its promises.

The first of these measures should be, to grant to the Duchy of

Schleswig as I reported to your Lordship in my despatch of the 24th of April I had suggested to M. Hall, a new Constitution, on a liberal basis, which should ensure legislative and administrative independence to the Duchy. A new arrangement with regard to the languages might also be made in the sense of that alluded to in my above-named despatch; and, in short, such other guarantees for the liberty and development of nationalities in the Duchy, if it might be in accordance with the wishes of the population. Such concessions as made to precede an equitable proposal for Holstein, would, I believe, go far to ensure it a favourable consideration, both in that Duchy and in Germany; and without something of this nature being done, I fear all efforts to bring about a settlement of the question will be fruitless: for although the Confederation has no actual right of interference in the Duchy of Schleswig, as it has in Holstein, it must always be borne in mind that the two Duchies were for centuries united by the same laws and institutions; that they are to a great extent peopled by the same race; and that these circumstances have produced sympathies between them in which it is not unnatural that Germany should take part, and which will ever be the stumbling-block of every arrangement proposed for the one Duchy until justice is done to the other.

Without, therefore, now entering into details, I would venture to express the opinion that the great point to be obtained from the Danish Government is, a frank and loyal recognition of the freedom and equality of the nationalities of the Duchy; the removal of every unnecessary and vexatious restriction; and that as much independence should be granted to the Provincial Assemblies of both Holstein and Schleswig as is compatible with the integrity and preservation of the Monarchy.

I have, &c.

Lord J. Russell. A. PAGET.

No. 40.—M. de Bille to Lord J. Russell.—(Received July 24.)

MY LORD, *London, July 23, 1860.*

IN the course of the conversation I had the honour to have with your Excellency on the 19th instant, I mentioned that I would be happy to submit to your Lordship, if desired, a summary statement of the manner in which the question of language and nationality had been regulated in the Duchy of Schleswig, and as you signified that it would be agreeable to you to receive such a statement I have now the honour herewith to inclose one which I have drawn up from official documents communicated to me by my Government.

In doing so, I deem it, however, proper to add, that my Government does not regard itself as having contracted any international obligations with Germany or any other Power as to the administration of Schleswig and the treatment of the different nationalities

existing in that Duchy; and that, in being willing to offer explanations concerning administrative measures adopted with reference to that Duchy, it is only from a proper desire to clear itself of the imputation of oppression and tyranny with which it has been charged by the press of Germany, animated as it is by the most bitter hostility to Denmark. I have, &c.

Lord J. Russell. TORBEN BILLE.

(Inclosure.)—Statement of the Measures adopted with reference to Language and Nationality in the Duchy of Schleswig.

THE population of the Duchy of Schleswig is about 400,000. The northern and central part is occupied by Danes, the southern part by Germans, and the islands on the west coast, as well as a narrow strip of land along that shore, by Frisians. It is estimated by German writers that the purely Danish population numbers 135,500; the German 146,500; the Frisian 33,000; and those of mixed nationality 85,000.

The Danish nationality originally extended over the entire Duchy to where the River Eider has from time immemorial been the geographical and political boundary separating Denmark from Germany, and where the Dannevirke, the ancient rampart thrown up by the Danes as a bulwark against German encroachments, still stands, and is even now, as it was of old, the military frontier of the Scandinavian races towards the south. The Danish nationality has, however, gradually receded, and can now only be traced as far south as the districts contiguous to the arm of the sea called the Schlei.

The Duchy of Schleswig having from various causes for a long period been subjected to the administration of German functionaries, the German language introduced into the Duchy by German settlers, and favoured by German rulers, acquired an official supremacy in this Danish Province, and was adopted as the language not only of the courts of law throughout the Duchy, but also of church and school in the greater part of the country, and even in parts where the language of the people had continued to be pure Danish. The injustice of this state of things was felt long ago, but every attempt made to reinstate the Danish nationality and language in its ancient rights met with a passsive but effective resistance on the part of the German functionaries entrusted with the administration of the Duchy. Thus in the year 1810 the then reigning Sovereign of Denmark, King Frederick VI, published a Royal Resolution declaring that "whereas in our Duchy of Schleswig the inhabitants of some of the islands and of the greater part of the prefectures and districts on the mainland speak Danish, it is our will that in these islands and prefectures, where the Danish language is the language

of the people, the German language shall cease to be used i church, school, and in the courts of law, and the Danish languag take its place;" but this Resolution was suffered to become a dea letter; and it was not till after the events of 1848 had taught th Danish nation what disastrous political consequences the gradu Germanization of the Duchy entailed, that efficient measures wer taken to give effect to the above-quoted Royal Resolution of 181 and to stay the further Germanization of the population of the Duch A series of Ordinances issued in the years 1850 and 1851 regulate the question of language in Schleswig on the principle of respectin on the one hand, the acquired rights of the German nationality an language in the Duchy, and of upholding, on the other, the Danis nationality and language there where it had still maintained itself

According to these Ordinances the Danish language has bee declared the language of the church, of schools, and of the court of law in those parts of the Duchy where Danish continues to b the language of the people; and the German language, on the othe hand, has been maintained in all its acquired rights there where th population had become completely Germanized, or nearly so.

As purely Danish the Ordinances treat that part of the Duch extending south-east as far as the Firth of Flensborg, and south west to the neighbourhood of Töndern (see Map 2), with a popu lation of about 135,500, excepting therefrom the towns of Apenrad Hadersleben, Sönderborg, and Töndern, which, from having partially German population, are assimilated with the district having a mixed nationality.

German writers fully acknowledge the purely Danish nation ality and language of this portion of the population; but Danish writers who have thoroughly investigated the question maintain tha the purely Danish element in Schleswig extends much further south.

As purely German the Ordinances treat the southern portion of the Duchy extending north-east some distance beyond the Schlei and prolonged north-west about half the length of the coast, with the adjoining islands, thus including the entire Frisian population, and numbering altogether 177,000 souls (see Map 2). Danish writers complain that the Frisian population of about 30,000 are treated as pure Germans, although their language has amalgamated more with the Danish than with the German.

As containing a population of a mixed nationality, and using indiscriminately Danish and German as medium of intercourse, the Ordinances treat the tract of country situated between the purely Danish and the purely German districts as above defined, and con taining a population of 82,000 (see Map 2, the part coloured green) excepting therefrom the town of Flensborg, which, from having

larger German population than Danish, is assimilated with the pure German districts.

In regard to the population of this tract of country the Ordinances have decided that Danish and German shall alternately be used in the churches; that both languages shall be taught in the schools, but as only one of them necessarily can be used as medium of instruction, the Danish language has as such received the preference, whilst the German is taught as a branch of the instruction given; that baptism, marriage, the Lord's supper, and other church ceremonies, with the exception alone of confirmation, shall be performed by the clergy in the language preferred by the parties; and also that litigants before the courts of law shall decide as to what language they wish to be used in the proceedings there or in applications to Government authorities, &c.

In regard to all general measures concerning the whole Duchy both languages are used. The members of the Provincial Assembly of Schleswig can express themselves either in Danish or German.

The President of the Assembly and the Royal Commissary are bound to use both languages; and all laws are published both in German and Danish.

It was unavoidable that, in deciding upon what part of the population of Schleswig should be treated as being of a mixed nationality, neither wholly Danish nor wholly German, both the Danish and German party in the State would feel aggrieved, both respectively claiming the majority of said population as belonging exclusively to their own respective nationalities. However, comparing the limits of nationalities and languages as fixed upon by the Ordinances and represented in Map 2, with the two German linguistic maps of Schleswig, Nos. 3 and 4, designed by partizans of the German interests, it will be seen that the Danish Government, in its anxiety not to overstep the bounds of moderation, has almost followed the very lines of demarcation drawn by German publicists hostile to Denmark, and who were desirous to represent in its fullest extent the pretended German nationality of Schleswig. In fact, they vary only in regard to 4 or 5 parishes. The Ordinances have thus confined the Danish and mixed districts to limits far narrower than those laid down in Map 1, drawn by Professor Allen, the distinguished Danish historian, who had thoroughly and conscientiously investigated the question of nationalities in Schleswig. According to said Danish map of Schleswig, No. 1, the Danish nationality actually extends, more or less, as the dotted part indicates, as far south as the town of Schleswig and the ancient Dannevirke.

When complaints are now made in Germany about the German nationality and language being oppressed in Schleswig, it may be

well to call to mind that the Ordinances of 1850-51, regulating the question of language in Schleswig, were promulgated and carried into effect pending the negotiations between Denmark and Germany without any of the parties to said negotiations finding occasion to address remonstrances to Denmark on the subject; and further, that the King of Denmark, to testify the sincerity of His Majesty's desire to treat his German subjects in Schleswig with all possible indulgence, entrusted, at the express wish of Prussia, the administration of that Duchy to a distinguished Holstein nobleman, Count Charles Moltke, who gave to the said Ordinances his full approval, and exerted himself to bring them into prompt and complete execution.

No. 41.—*M. Hall to M. de Bille.**—(*Communicated to Lord J. Russell by M. de Bille, July* 30.)

MONSIEUR, *Copenhague, le* 23 *Juillet*, 1860.

D'ACCORD avec M. de Schleinitz dans le désir de ne pas voir se prolonger la discussion engagée sur le Slesvig j'ai cru pouvoir me borner vis-à-vis de la dépêche ci-jointe en copie, et le Memorandum qui l'accompagne,* à maintenir de vive voix devant M. de Balan les vues justes sur la question, et d'autant plus que le contenu de ces documents, bien que le Ministre Prussien y prenne à tâche d'établir une nouvelle interprétation des actes passés en 1851-52, n'est pas de nature à modifier les conclusions auxquelles je me suis arrêté dans mes dépêches antérieures. Mais en terminant ainsi cette épisode, j'ai cru utile en même temps de ramener ici par quelques mots la discussion sur son vrai terrain.

L'Autriche et la Prusse ayant agi exclusivement en qualité de mandataires de la Confédération, l'accord établi par les négociations entre eux et le Danemark devait être soumis dans son entier à la Diète pour recevoir ainsi l'approbation de celle-ci dans l'acte solennel qui mettrait un terme définitif au différend. C'est là le principe incontestable du droit public. Aussi en rendant compte à la Diète du mandat qui leur avait été confié, les deux Puissances exprimèrent directement l'espoir que la Diète épuiserait par son Arrêté le différend entier existant jusque là. Or, que contient cet Arrêté, dont le caractère était ainsi déterminé d'avance? Vous le savez, Monsieur. Il reconnait que le nouvel ordre de choses établi par l'Ordonnance Royale du 28 Janvier, 1852, en tant qu'il regardait les Duchés de Holstein et de Lauenbourg, était conforme aux lois et aux droits de la Confédération; il exprime la confiance que le Roi veillera au maintien et au développement des institutions existantes dans ces provinces, ainsi que de la position qui est due à ces pays dans leur union avec le reste de la Monarchie, et il déclare

* Circular to Danish Representatives abroad.

r conséquent que le règlement du différend est définitivement prouvé par la Diète.

Il n'y a donc pas, je le répète, le moindre ombre de doute ; rrêté Fédéral du 29 Juillet, c'est bien l'arrangement définitif et tier entre le Danemark et la Confédération, et il s'occupe ex- sivement des deux Duchés Allemands.

Les arguments que M. de Schleinitz a voulu chercher ailleurs à ppuie d'un prétendu droit pour l'Allemagne à s'ingérer dans les aires du Slesvig ne sont pas plus convainquants.

Le Rapport présenté par les deux Puissances mandataires fait ssi mention du Slesvig, et il contient entre autres un passage sur protection de la langue et de la nationalité Allemandes dans ce ys. Mais, ce Rapport a pris à tâche de résumer les dispositions l'Ordonnance Royale du 28 Janvier, 1852, qui ayant pour but de gler en général les rapports constitutionnels de la Monarchie ablit des principes pour le Slesvig et le Royaume aussi bien que ur le Holstein et le Lauenbourg. Que le principe de la protec- n de la langue Allemande dans le Slesvig trouvât place dans rdonnance, voilà ce qui se conprend aisément ; mais vouloir ndre vis-à-vis de la Confédération un engagement formel au sujet n principe qui par sa nature se prête si facilement à de différentes erprétations, c'eût été déposer en terre féconde une semence qui urait pas tardé à croître et à fructifier. Aussi, je le répète—et aut le répéter toutes les fois qu'on y reviendra—pas une syllabe ces négociations ne fait mention d'un tel principe. Lorsque, le pport des Puissances mandataires ayant été déposé, l'Envoyé du prit la parole pour communiquer à la Diète l'Ordonnance yale, il ramena cet exposé unilatéral dans les justes limites en ntant expressément que la Diète connaîtrait par cet Acte Royal garanties données en général aux sujets et nommément aux ts Provinciaux du Holstein et du Lauenbourg ; et l'Arrêté éral lui-même, qui adopta verbalement les conclusions du port, restreint son examen et son approbation de l'Ordonnance al du 28 Janvier expressément à ce qui regarde les Duchés mands. Que prouve donc vis-à-vis de ces faits une certaine ude des expressions du Rapport, surtout quand les conclusions Arrêté ne font pas la moindre mention de la préambule, et un principe bien reconnu à Francfort, que si les conclusions ne fèrent pas expressément au Rapport précédant, la Diète en rant aux conclusions n'adopte pas pour cela tout ce qui se re dans le Rapport lui-même.

fais c'est particulièrement dans les négociations de 1851 que le stre Prussien cherche des points d'appuie pour son apprécia- Malgré les longues citations du mémorandum, M. de Schleinitz te pas assez pour que la question soit mise dans son vrai jour.

Tout en me référant du reste à ma dépêche No. 16, j'appeller votre attention, Monsieur, sur deux points principaux.

D'un côté le double objet des négociations de 1851 était la ce sation de l'occupation Fédérale du Holstein et la position que l Roi donnerait à ce pays. Quant au Slesvig, ce Duché se trouva déjà dans la possession du Roi, et les Puissances mandataires recon naissaient expressément qu'il était "un pays non-Allemand don les affaires ne pourraient par conséquent devenir le sujet de discu sions et de négociations avec la Confédration." (Dépêches Pru siennes du 30 Décembre, l'Annexe No. 5.)

De l'autre côté, les mandataires, tout en insistant pour connaîtr les intentions du Roi et lever les scrupules que le Gouvernemen du Roi avait à satisfaire à ces demandes, affirmaient que "les droit souverains de Sa Majesté leur seraient toujours sacrés mais que dan leur conviction la plus profonde il ne serait porté aucune atteinte à ces droits, si le Roi se trouvait dans le cas de devoir donner de éclaircissements ("Erläuterüngen") aux Confédérés." Et pou illustrer ces paroles d'un exemple, la dépêche Autrichienne d 26 Décembre, 1851, rappelle l'Arrêté Fédéral du 17 Septembre, 1846 "La déclaration du Gouvernement Danois du 7 Septembre, 1846 était donnée volontairement pour conjurer certaines appréhension provoquées par la Lettre Patente du 8 Juillet de la même année, et elle avait été acceptée dans le même sens par la Diète, qui l'avait prise pour base d'un Arrêté spécial. Ni les Cours de Berlin et de Vienne ni la Diète elle-même n'ont prétendu donner à cette tâche le caractère d'une transaction synallagmatique et obligatoire, qu'il n'avait réellement pas, et jamais elles ne se sont réfusées à tenir compte d'un changement des circonstances. Mais de l'autre côté le Danemark ne prétendrait pas non plus que, immédiatement après ces déclarations, le Roi eût pu agir contrairement, en s'appuyant sur son droit de souverain, et sans donner d'autres explications à la Diète que celle-ci, savoir, que son droit n'était limité que par la compétence ordinaire de la Diète." Il ne s'agissait donc pas d'un acte synallagmatique et obligatoire, mais simplement d'explications ("Erläuterüngen") volontaires; il ne s'agissait pas d'assumer des obligations inaltérables, mais uniquement de donner une exposition de vues et d'intentions qui, pour subir dans la suite des changements quelconques, n'auraient besoin que d'une nouvelle communication à la Diète des motifs qui auraient conseillé ces modifications. Ce fut seulement après ces assurances formelles et expresses que le Roi crut pouvoir déclarer certaines intentions à l'egard du Slesvig, et elles forment pour ainsi dire le cadre et le fond dont ces déclarations ne sauraient jamais être détachées.

Maintenant quelles sont donc dans leur vrai teneur ces intentions déclarées par le Roi qui donnent lieu à tant de débats? Vous les

naissez, Monsieur; et la Prusse elle même les a parfaitement umées dans sa dépêche du 30 Décembre, 1851; savoir, la non-orporation du Siesvig dans le Royaume proprement dit, le ré-lissement des Etats Provinciaux Slesvigois, et le maintien du *us socialis* de l'ordre équestre. Et ces intentions Royales auraient-s été modifiées plus tard par le Gouvernement du Roi? ou même seraient-elles peut-être encore à attendre leur accomplissement? n appelle tranquillement au jugement impartial de tout le monde ur décider la question si ces intentions n'ont pas été réalisées médiatement et complètement sans que la moindre démarche ait faite plus tard par laquelle le Gouvernement eût quitté la voie fois tracée.

Serait-il possible, je le demande, dans ces circonstances et après démonstrations précedentes, de parler sérieusement "d'engage-nts internationaux pris par le Danemark par rapport au Slesvig ui seraient restés entièrement sans aucun effet."

de Bille. C. HALL.

44.—*Memorandum communicated to Lord J. Russell by M. de Bille.*

THE present excited state of public feeling in Germany on the ject of the Duchies of Schleswig and Holstein renders it more icult than ever for the Danish Government to bring about a lement of the Constitutional organization of the Monarchy. ler these circumstances it becomes a matter of necessity to ride in a temporary manner for the position of Holstein in the ish Monarchy, until that position shall be finally settled either he Duchy entering into a Constitutional union with the rest of Danish Monarchy, or by her obtaining a separate position more as independent of the rest of the Monarchy.

'he Danish Government proposes to provide for this temporary of things by giving to the Provincial Assembly of Holstein legislative power, in conjunction with the General Assembly gsraad," or Council of State), for the rest of the Monarchy, all matters concerning the whole Monarchy, so that no general ire of that description would receive the force of law till it een sanctioned, on the one part, by the General Assembly gsraad") for Denmark-Schleswig, and on the other, by the ncial Assembly of Holstein.

the two Assemblies should disagree, and persist in the dis-sent, nothing would be left but to make, as far as the umstances of the particular case might require, those public s which have hitherto been treated as being exclusively the control of the General Government, henceforth matters

of provincial legislation on the part of the Provincial Assembly of Holstein, in so far as they concerned that Duchy.

According to the present financial system of the Danish Monarchy, the expenses of the General Government are in part defrayed by proportionate contributions from the revenues of the different constituent parts of the Monarchy, viz., Denmark Proper, Schleswig, and Holstein. It is proposed by the Danish Government to fix, once for all, the maximum contribution to be furnished by Holstein, by taking the average of what that Duchy has contributed during the last 4 years to the expenses of the General Government, and to make any demand, over and above that amount, which circumstances might call for, dependent on a special grant by the Provincial Assembly of Holstein.

Such a temporary arrangement of the constitutional question of the Danish Monarchy would, it is hoped, afford time for calm reflection, tend to promote a conciliatory spirit on the part of Holstein, and prepare the way for the final adoption of a constitutional organization of the Monarchy on a basis satisfactory to all parties. It would, moreover, in excluding foreign interference with the domestic troubles of Denmark, allow that political agitation to subside which has hitherto been fostered by such interference, and rendered unavailing every effort of the Danish Government to effect a settlement of the constitutional question of the Monarchy.

No. 45.—Lord J. Russell to Mr. Paget.

SIR, *Foreign Office, August 2, 1860.*

WITH reference to the affairs of Denmark, I have received lately a memorandum from the Danish Minister accredited to Her Majesty. A copy of it is herewith inclosed.

It is to be observed that, with regard to Holstein, the concessions proposed for a temporary arrangement are very large.

For instance: "The Danish Government proposes to provide for this temporary state of things by giving to the Provincial Assembly of Holstein full legislative power, in conjunction with the General Assembly ('Rigsraad,' or Council of State), for the rest of the Monarchy, as to all matters concerning the whole Monarchy, so that no general measure of that description would receive the force of law till it had been sanctioned on the one part by the General Assembly ('Rigsraad'), for Denmark-Schleswig, and on the other by the Provincial Assembly of Holstein." And again: "According to the present financial system of the Danish Monarchy, the expenses of the general Government are in part defrayed by proportionate contributions from the revenues of the different constituent parts of the Monarchy, viz., Denmark Proper, Schleswig, and Holstein. It is proposed by the Danish Government to fix, once for all, the

maximum contribution to be furnished by Holstein, by taking the average of what that Duchy has contributed during the last 4 years to the expenses of the General Government, and to make any demand over and above that amount which circumstances might call for, dependent on a special grant by the Provincial Assembly of Holstein."

The defect of this memorandum is, that it does not touch at ıll on the affairs of Schleswig; but it might be accepted as a basis by he German Powers, if Denmark, with a view to a friendly and final rrangement, would make certain concessions to the German inhabitnts of Schleswig.

Should this view be entertained by Denmark, Her Majesty's lovernment would suggest to the Danish Government the exediency of modifying or repealing such of the laws now existing . Schleswig as can fairly be shown to be in contradiction with the oyal Patent of 1852, by which the King of Denmark promised place the German and Danish populations of Schleswig on an ual footing.

The principal points upon which there appears to be cause of nplaint are—the forced confirmation in the Danish language; ı forced system of private education; the prohibition of the etings of scientific societies; and the system which is employed he correction of the electoral lists.

If the Danish Government would, in addition, grant Schleswig Constitution, guaranteeing to the Duchy legislative and adistrative independence, and would leave the question of the guage to be used in the churches and schools to be determined the wishes of the population in the so-called mixed districts, it ears to her Majesty's Government that they could not fairly be e to the charge of not having fulfilled their engagements, or of ing to incorporate the Duchy.

You are instructed to read this despatch to M. Hall, and to him whether, without any negotiation with Germany or with European Powers, he would feel himself authorized to empower British Government to instruct Her Majesty's Minister at rfort to hold out an expectation that the measures here sug- l in regard to Schleswig are likely to receive the sanction of Danish Majesty.

I am, &c.

get, Esq. J. RUSSELL.

47.—*Mr. Paget to Lord J. Russell.*—(*Received August* 20.)

ct.) *Copenhagen, August* 14, 1860.

RETURNED to Copenhagen on Thursday morning the 9th . M. Hall was at that time on a visit to the King at Glucksut I had an interview with him on the following day, after

The concessions suggested in your Lordship's despatch of the 2nd instant relate:

1. To compulsory confirmation in the Danish language, on which point the Danish Government is disposed to yield as regards the religious part of the ceremony, but not as to the examination preceding the confirmation, which must still be performed in Danish. I doubt, therefore, if this will be considered as any great boon.

2. To the compulsory mode of private instruction. The present system will be modified in so far that persons will be at liberty to exercise their own choice as to the preceptor for their children, without the right of interference of the clergyman or other authority of the parish, as is now the case, but the children must pass an ulterior public examination in the Danish language. This is an improvement, but it would have been more satisfactory without any obligation attached to it.

3. To the revision of the electoral lists. On this point the concession appears to be complete.

4. To the meeting of non-political societies. The existing prohibition will be removed, and liberty be given for Holsteiners and Schleswigers to associate, provided the designation of the society does not bear a political signification, and has not political objects in view.

When I had read this memorandum, I expressed to M. Hall the disappointment which I felt that it did not contain any allusion to the other two points alluded to in your Lordship's despatch; namely, the new Constitution for Schleswig, and the alteration of the present system regarding the languages employed in the schools and churches in the mixed districts.

I do not think it necessary to trouble your Lordship with the details of the further conversation which took place between M. Hall and myself, and in which I made use of every argument I could think of to induce him to reconsider the points in question. Though M. Hall failed to convince me that the interests or dignity of the Danish Government would in any way suffer by yielding upon them, I was unable, I am sorry to say, to obtain from him any promise of a more favourable decision.

With regard to the concessions which the Danish Government declare themselves disposed to make, I can only express the hope that when carried into execution they may be favourably received by the populations, and may tend to calm the irritation which at present exists. They do not certainly come up to what I had hoped to obtain from M. Hall, nor will they probably be considered as settling what the Danish Government has promised; but the fact must not be lost sight of, that the real question at issue between Denmark and the Confederation is relative to Holstein, and not to Schleswig; and that, therefore, any concessions whatever made

towards the latter Duchy must be taken as so much gained fo
part of the Kingdom in which the Danish Government does
admit the right of any foreign Power to interfere.

The last paragraph of the memorandum, though sufficien
vague, does not preclude the hope that the Danish Governm
may eventually grant a further amount of liberty to the Duchy.

Lord J. Russell. A PAG

(*Inclosure* 1.)—*Memorandum on the Duchy of Holstein.*

Le but que le Gouvernement Danois s'est proposé est celui
créer une position au Holstein qui permette d'attendre tranqui
ment le moment propice pour un développement ultérieur de l'
ganisation de la Monarchie.

Tant que la Diète de Francfort se croira en droit de menacer
l'exécution Fédérale, et tant que les esprits en Holstein ser
agités par l'idée qu'ils pourraient être atteints dans leurs droits p
sonnels et dans leurs propriétés par l'autorité que le Rigs
exerce dans les affaires communes, une collision funeste entr
Danemark et l'Allemagne sera sans cesse à craindre, et un rè
ment définitif des affaires constitutionnelles de la Monarchie se
toujours sûr de trouver un accueil défavorable, et de la méfia
dans le Holstein.

De son propre gré, sans que le Holstein et la Diète aient
droit quelconque à demander de nouvelles concessions, et bien q
ne se cache nullement que la marche de l'administration ne po
que se trouver singulièrement entravée par un vote délibé
accordé aux Etats du Holstein pour les affaires communes, le G
vernement a néanmoins cru devoir s'y prêter.

Mais pour se décider à entrer dans cette voie il fa

Pour ce qui est de la législation proprement dite, le vote consultatif accordé par section 2 de la Patente Royale du 23 Septembre dernier aux Etats Holsteinois sera changé en vote délibératif de sorte qu'il faudra dès lors à toute loi qui aura force dans le Holstein pour les personnes et les propriétés, l'approbation des Etats de ce Duché.

Il est à espérer qu'un accord entre les Etats et le Rigsraad ne manquera pas de s'établir sur le terrain commun des deux Assemblées, grâce aux intérêts communs qui régissent ces matières. Mais si malgré les efforts réitérés du Gouvernement un désaccord irrémédiable se manifestait entre les deux Assemblées sur une affaire trop importante pour pouvoir être remise à une époque postérieure, le Gouvernement s'engagera à ne mettre la disposition à laquelle s'est opposée l'une des deux Assemblées, à exécution que dans celle des deux parties de la Monarchie dont la représentation n'a formellement acceptée, et à prendre par conséquent les mesures administratives nécessaires pour restreindre la disposition à ce terrain-là. Il faudrait peut-être des dispositions spéciales d'organisation pour essayer de rapprocher les opinions dissidentes (comme, par exemple, par une Commission Mixte, composée d'un nombre égal de membres des deux Assemblées); mais sans entrer dès-à-présent dans des détails sur ce point on fera seulement remarquer qu'aucune atteinte ne sera portée, par les dispositions mentionnées, à la liberté de décision des deux Assemblées Législatives.

Quant à l'administration financière la somme que les finances spéciales du Holstein auront à verser annuellement dans la caisse commune pour contribuer pour sa part à couvrir les dépenses communes, sera fixée une fois pour toutes à 850,000 rix-dalers. Cette somme est la moyenne de ce qui pendant les 6 ans dans lesquels l'organisation actuelle existe, est tombé à la charge des finances spéciales du Duché. Tant qu'une augmentation de cette somme ne deviendra pas nécessaire, l'Assemblée des Etats Holsteinois n'exercera aucune influence sur l'emploi des fonds communs; mais du moment que les besoins extraordinaires ou croissants de l'administration viendraient à exiger des ressources plus grandes, l'augmentation de la somme fixée ne pourra être imposée aux finances spéciales du Holstein par Ordonnance Royale, mais seulement par vote libre des Etats.

(*Inclosure* 2.)—*Memorandum on the Duchy of Schleswig.*

Le Gouvernement du Roi ne peut ni ne veut faire entrer dans discussion les affaires intérieures du Slesvig.

Que le Roi ait renoncé dans les négociations de 1851 à l'incorporation de ce pays non-Allemand dans le royaume proprement dit,

ont pris part à des démonstrations révolutionnaires ne s'est pas étendue jusqu'à leur rendre les droits politiques, et ils ont par conséquent été rayés dans la plupart des districts des listes électorales. Par une Ordannance Générale le Gouvernement fera disparaître cette exclusion, et l'Assemblée des Etats controlera elle-même la confection des listes.

4. Plus la position du Holstein se dessine vis-à-vis du reste de la Monarchie, plus les liens qui rattachent le Slesvig et le Holstein devraient être suspendus provisoirement. Néanmoins le Gouvernement, pour obtempérer aux vœux du Cabinet Britannique, serait disposé non-seulement à les laisser intactes dans l'intervalle, mais même à publier des régles administratives sur le droit d'association. Des sociétés dont le but ne s'écartera pas de la légalité pourront se former dans le Slesvig sans aucune permission prélable du Gouvernement, seulement elles ne doivent pas servir de prétexte à des démonstrations séparatistes. Il ne sera donc pas permis de nommer une société quelconque " Schleswig-Holsteinisch," ou de restreindre son action au Slesvig et aux Duchés Allemands comme formant ensemble un pays à part et séparé du reste de la Monarchie. Mais dans une société fondée pour le Slesvig il sera permis à des membres Holsteinois d'entrer, et *vice versâ* il restera permis à des Slesvigois l'entrer comme membres dans une société établie dans le Holstein conformément aux dispositions précédentes.

Ce sont là les modifications que le Gouvernement se prêterait, n cas échéant à apporter au régime existant du Slesvig. Bien que e Gouvernement ne se livre pas à l'espoir que l'agitation des peronnes qui ont bien d'autres buts s'apaisera devant ces concessions, nais il croit que le conflit avec l'Allemagne définitivement écarté ar les mesures indiquées, il réussira par une attitude énergique, en ême temps que modérée, à ramener le calme dans les esprits. Une fois l'agitation finie, le Gouvernement avisera aux moyens 'accorder des libertés au pays qui ne feraient que s'accorder parfaitement à l'esprit qui anime ailleurs l'administration de la Monarchie Danoise, mais qui à l'heure qu'il est ne pourraient être ussées et abusées par l'esprit factieux.

No. 52.—Mr. Paget to Lord J. Russell.—(Received September ...

Y LORD, *Copenhagen, September ...*

YOUR Lordship will have probably heard from Frankfort before the separation of the Diet for the holidays. The Representative of Oldenburg presented a motion [illegible] which the Danish Government having published the [illegible] without having previously submitted [illegible] Holstein to the vote of the States [illegible]

the Decree of the Diet of the 8th of March of this year, and t
consequently, there were grounds for a Federal execution.

This motion was referred to the Committee for the Affair
Holstein, who recommended that explanations on the subject sho
be required from the Danish Government, through the medium
the Representatives of Austria and Prussia at Copenhagen; t
instructions to demand these explanations have, in consequen
been recently received and carried out by the Prussian Minister
the Austrian Chargé d'Affaires.

M. Hall has not as yet replied to their communication, but
speaking on the subject with me, his Excellency observed that altho
the amount to be contributed by Holstein is specified in the gen
Budget of the Monarchy, alluded to by Oldenburg, neverthe
the financial measures relating to the Duchy were promulgated
Royal Patent, dated the 24th of September, 1859, and can
therefore, be construed into an infraction of a Decree of the D
issued several months later.

On further examination of M. Hall's memorandum respect
the temporary arrangement to be proposed for Holstein (inclose
my despatch of the 21st ultimo) in connection with the Decre
the Diet above alluded to, I am under some apprehension, notw
standing the engagement undertaken that any further sum bey
that which is now put down as the contribution of Holstein towa
the general expenses of the Monarchy is to be subject to the vot
the States of the Duchy, that difficulties may arise from the fac
any amount being positively fixed by the Danish Government as
share of Holstein, without the previous sanction of those States.

It might, therefore, be desirable for the Danish Government
consider some means for meeting this objection.

I have &c.

approach to a reconciliation between the Diet of the German Confederation and Denmark.

Her Majesty's Government are persuaded that the fear entertained in Germany that Schleswig is to be incorporated in Denmark, and the fear entertained in Denmark that Germany wishes to separate Schleswig from Denmark, and to absorb it in the Confederation, are the repelling influences which prevent a cordial understanding between Prussia and Denmark.

If these two projects were unequivocally disavowed, and practically laid aside, the mutual interests of Germany and Denmark ought to produce a cordial friendship and permanent alliance.

I am, &c.

A. Paget, Esq. J. RUSSELL.

No. 57.—Mr. Paget to Lord J. Russell.—(Rec. at Coburg, Oct. 2.)

(Extract.) *Copenhagen, September 26, 1860.*

I HAD a further interview with M. Hall on Monday last, the 24th instant, after the receipt of your Lordship's despatch of the 19th instant, and I thought it advisable, in order to put his Excellency in complete possession of the views of Her Majesty's Government, to read that despatch to him.

After expressing his acknowledgments to Her Majesty's Government for undertaking to communicate the proposals to the Prussian Government, M. Hall said that all he could hope was that the Prussian Government would take them as a basis for negotiation, for he felt convinced that no terms whatever could be presented by the Danish Government which would be deemed at once satisfactory by Prussia.

His Excellency said that he entirely concurred with your Lordship as to the repelling influences which prevent a cordial understanding being come to on the questions in dispute; but in so far as he himself and the present Government in Denmark was concerned, he could give me the most solemn assurance that nothing was further from their wish or intention than to incorporate Schleswig to the Monarchy. He considered that it would be neither a beneficial nor a desirable arrangement in any respect. I replied that I gave his Excellency every credit for good faith in the assurance which he had just made on the part of himself and his colleagues, and which I should not fail to report, in the hope that a repetition in the proper quarter might be useful; but, I said, that would be attended by far more beneficial result, would be one practical proof of the sentiments of the Government, which would bear out their assertions. What people in Germany complained of, I said, was, that by underhand means the Danish Govern-

ment were bringing about the very result which they professed to have in view.

M. Hall said that he contended, and always would contend, t no international engagement had been taken in regard to nationalities; that everything which bore upon this point was to found in the Royal Patent of January, 1852, only, which wa spontaneous act on the part of the Sovereign towards his subje He did not deny that it was binding on this account, and he willing to do his utmost to give it full effect.

In regard to the question of the languages, for instance, Excellency observed that the present arrangement had been m by Count Charles Moltke, himself a Holsteiner; that it was ceived as satisfactory at the time, and had only been objecte subsequently.

In order, however, to put an end, once for all, to all furt meddling on the part of Germany in the internal affairs of country, he would be disposed, provided it would really attain t object, to take this subject, as well as that relating to a gre extension of powers to the Schleswig Diet, into consideration, w a view to rendering them more conformable to the wishes of German party in the Duchy.

With regard to the incorporation, M. Hall said it had beer frequently mentioned in the correspondence between Denmark Austria and Prussia in 1851, that it might almost be considered an international engagement, although no formal Act had b signed, and that he should consider if it was ever attempted carry it into effect, Germany would have a right to interfere prevent it.

M. Hall had no further time for conversation that day, hav to attend upon His Majesty, who had just returned to the capit

which passed between the Cabinets of Berlin and Copenhagen in the months of May, June, and July last, arising out of the debates in the Prussian Lower House upon the peculiar grievances of the Duchy of Schleswig, has for some time past been in the possession of Her Majesty's Government. The ground taken by Prussia in this correspondence is considered good by the German lawyers; and it will be easy for Austria and Prussia, by obtaining new powers from all the other German States, to put themselves again in the same position in regard to Denmark as they were during the war which was terminated by the arrangements of 1851 and 1852.

A protest of the Grand Duke of Oldenburg has been made public, purporting to have been made in the sitting of the Federal Diet on July 26, against the financial budget fixed by the Danish Government for the year from April 1, 1860, to March 31, 1861, for the Duchies of Holstein and Lauenburg, and issued without having been submitted to the States of those Duchies. This proceeding, which is considered by Oldenburg to be a breach of the condition imposed upon Denmark by the resolution of the Federal Diet, dated March 8 last, will be deliberated upon by that body when it meets, after the vacation, in the last week of October. If the Diet should determine that a breach of faith has been committed, it may proceed to executory measures under its resolutions of February 11 and August 12, 1858.

A protest has also been published under the signature of the Prince Frederick Christian of Schleswig-Holstein, eldest son of the Duke of Schleswig-Holstein-Augustenburg, dated Dolzig Castle, January 15, 1859, against the succession to the Throne of the Danish Monarchy fixed by the Law of July 31, 1853, with the approval of the Great European Powers. Although this Protest may, at the present time, be of little moment, it may become of more importance whenever the elder Royal line shall become extinct, there being in the Duchies a large party who are dissatisfied with the rule of succession fixed in 1853, and who, if they could, would still make effort to give the Ducal Crown to a Prince of the House of Augustenburg, notwithstanding the renunciation of it formerly made by the Duke of Augustenburg, the father, as the head of that house.

The Danish Government having some months ago notified to the Federal Diet its intention of submitting again to the States of Holstein a renewed project of a Constitution for the common affairs of the Monarchy, M. Renck, of Holstein, formerly a member of the Imperial Council, has put forth a pamphlet which has attracted some notice, offering some suggestions for the composition of a legislative body upon an entirely new principle. I have the honour to transmit herewith a copy of this pamphlet, together with

a précis thereof, in which the reasons are stated why M. Renck's plan could not be expected to work successfully.

I have, &c.

Lord J. Russell. J. WARD.

(*Inclosure.*)—*Précis of a Pamphlet "On the Question of the Constitution of the Danish Monarchy" ("Zur Verfassungs-Frage der Dänischen Monarchie"), by D. A. Renck.*

No. 61.—*Mr. Paget to Lord J. Russell.*—(*Rec. at Coburg, Oct.* 5.)

My Lord, *Copenhagen, October* 2, 1860.

On inquiry of Mr. Hall a few days since if he had informed his colleagues of the contents of your Lordship's despatch of the 19th September, which I had communicated to him, and whether they had taken any new decision with regard to the affairs of Schleswig in consequence, his Excellency replied that he had certainly made known the opinions of Her Majesty's Government in the Council which had been recently held, but that the moment was not yet arrived for going beyond what was stated in the memorandum which I had received from him, a copy of which was inclosed in my despatch of the 21st August.

The time for considering what might be further done would be when the Prussian Government had assented to the arrangement for Holstein.

I had a further interview with his Excellency yesterday, and I again came back to this subject. I said I was about to avail myself of your Lordship's permission to leave Copenhagen temporarily, and it would be a source of great satisfaction to me before doing so, if I could inform your Lordship that the Danish Government had decided on taking that course which could alone lead to a satisfactory solution.

I said it was most important for the success of the negotiations which Her Majesty's Government had undertaken at Berlin to strengthen their hands in the way I had indicated.

I then alluded to the various points in the memorandum above mentioned. I did not deny, I said, that there were certain concessions made, but what was given with one hand might be said to be taken back by the other, and the general impression left on the mind was that the Danish Government was not sincere in its desire to remedy the evils complained of. I therefore begged his Excellency most earnestly to reconsider not only the partial concessions specified in the memorandum, but to look at the whole question in a larger and more liberal spirit, and to take such further measures as would enable Her Majesty's Government to support the Danish cause with efficacy and success.

M. Hall replied that he could only repeat what he had before told me, namely, that what was to be done for Schleswig must depend upon the reception which was now given to the proposals respecting Holstein. If they were accepted, and he could have a reasonable hope that by further concessions to Schleswig all further controversy would be put an end to, he would be enabled to take such measures as, he was convinced, would be satisfactory to Her Majesty's Government; but, without this prospect, he would only be attempting an useless task, and risking his own political position by promising more than he had already done. With reference to some of the observations I had just made, he said that, although the points I had alluded to might not appear important in themselves, they were, nevertheless, so considered by a large party in his country, and by many of his colleagues, who were opposed on principle to any concession respecting them.

M. Hall again spoke of his earnest desire to do everything he could to meet the views of Her Majesty's Government, but renewed the expression of his inability to go further in this direction until he was enabled to show that in doing so he would finally terminate all differences.

I have, &c.

Lord J. Russell. A. PAGET.

No. 63.—Lord J. Russell to Mr. Manley.

(R, *Foreign Office, October* 12, 1860.

I HAVE received Mr. Paget's despatch of the 26th ultimo, porting a further conversation which he had held with M. Hall lative to the concessions which the Danish Government proposed make to the Duchies of Schleswig and Holstein, and I have to struct you to say to M. Hall, that the Danish Government would well to allow Her Majesty's Government to communicate to ussia the memorandum to which the Danish Government agreed. he Prussian Government may then consider the matter, and see ether they can negotiate upon the proposed basis.

I am, &c.

C. Manley, Esq. J. RUSSELL.

No. 64.—Lord Bloomfield to Lord J. Russell.—(Rec. October 22.)

(tract.) *Berlin, October* 20, 1860.

I AVAILED myself of a short stay here of Her Majesty's Minister the Court of Denmark to discuss with him the best mode of king a further and a written communication to Baron Schleinitz M. Hall's memoranda respecting the concessions which the binet of Copenhagen are prepared to make with a view of arriving a better understanding with Germany on the questions of the chies of Holstein and Schleswig; and after communication with

M. Hall, Mr. Paget prepared a memorandum, in which he has endeavoured to embody the substance of the concessions proposed by Denmark, and I yesterday read this paper to Baron Schleinitz, and left it with his Excellency. A copy is herewith inclosed.

I have availed myself of the departure of a messenger to Copenhagen to send Mr. Manley a copy of this memorandum, and I would request your Lordship, if you approve of the communication which I have made to Baron Schleinitz, to direct Mr. Manley to give a copy of it to M. Hall, as it would be unfair to leave the Danish Government in ignorance of the step which I have taken here in an affair of such deep interest to them.

Lord J. Russell. BLOOMFIELD.

(*Inclosure.*)—*Memorandum communicated by Lord Bloomfield to Baron Schleinitz.*

Berlin, October 19, 1860.

THE Danish Government being sincerely desirous of putting an end to the controversy which has unfortunately so long existed between Denmark and the German Confederaton relative to the Duchy of Holstein, has determined on making a further effort to bring about this desirable result.

The Danish Government is convinced that it would be useless to endeavour, under present circumstances, and with the agitation which exists in the public mind in Holstein, to settle at once and definitely the constitutional position which that Duchy is to hold in the Monarchy; and that it is, therefore, necessary to prepare the way for a definitive arrangement by one of a temporary nature, which would give time for calm reflection and discussion between the two parties more immediately interested, viz., the Provincial States of Holstein and the Danish Government.

For this purpose the Danish Government is prepared to adopt the following modifications in the existing state of things:

The consultative vote accorded to the Holstein States by the second paragraph of the Royal Patent of the 23rd of September, 1859, to be changed to a deliberative one, so that no law shall have force in Holstein, either in regard to persons or property, without the approbation of the States of this Duchy. It is to be hoped that the common interests of the "Rigsraad" and the States of Holstein may produce an understanding between them on matters submitted to their deliberation; but if, notwithstanding the repeated efforts of the Government, disagreements should still continue to prevail between the two Assemblies on matters of too much importance to be postponed to a subsequent period, the Danish Government engages not to give effect to the measure in that part of the Monarchy, the Assembly of which shall have rejected it, and

to confine its operation to the part of the Monarchy whose Assembly has accepted it.

In order to bring about an understanding between the contending opinions of the two Assemblies, it might be necessary, perhaps, to adopt measures of a special character (such, for instance as the nomination of a Commission of equal numbers from both Assemblies); but without entering at present into details on this point, it may be observed that the Danish Government will do nothing that will interfere with the liberty of decision accorded to each Assembly.

With reference to financial arrangements, the amount which the special finances of Holstein will have to contribute to the common expenses of the Monarchy will be fixed once for all at 850,000 rix-dollars, which is the average sum paid by that Duchy on a calculation of the last 6 years. As long as no augmentation of this sum is necessary, the Holstein States will exercise no control over its employment, but should the exigencies of the State require additional resources, the augmentation of the sum fixed can only be imposed on the finances of Holstein by Royal Ordinance after the free consent of the States has been given.

The Prussian Government will doubtless recognise in the above proposals the spirit of conciliation by which that of Denmark is animated. If these arrangements are carried into effect the States of Holstein will in point of fact exercise the same control over measures affecting their Duchy as the Rigsraad possesses over those intended for the other parts of the Monarchy; and it is, therefore, hoped that, when the plan is submitted to the Diet by the Danish Representative at Frankfort, it may receive the support of Prussia. But the Danish Government is prepared to go still further in the way of conciliation. They cannot indeed, nor will they, admit any right on the part of Germany to interfere in the affairs of Schleswig; and whatever concessions are made to this Duchy must be understood as emanating solely from the free will of the Danish Government, and not construed into an admission of the authority of the Confederation in Schleswig.

As a proof of the friendly sentiments by which they are animated, and of their desire to remedy some of the evils complained of, the Danish Government would be prepared, on the consent of the Diet being given to the temporary arrangement for Holstein above alluded to, to adopt the following modifications in the laws at present existing in Schleswig:

1st. The religious ceremony of confirmation to be performed in the language selected by the individual.

2ndly. Freedom of private instruction, conditional on passing the usual public examinations.

3rdly. Complete amnesty for political offences, and re-establishment of attainted individuals in their political rights.

4thly. Freedom of meeting and association between Schleswigers and Holsteiners for non-political purposes, and provided no such designation as "Schleswig-Holstein" is attached to the society.

Such are some of the measures which the Danish Government would be at once disposed to adopt, and more might possibly be done later. It is submitted to the Prussian Government whether there is not sufficient here to pave the way to a better understanding between Germany and Denmark, and whether it would not be wise on the part of the former, in the present critical state of Europe, to take advantage of the conciliatory sentiments prevailing in Denmark for bringing these long-pending disputes to a termination.

No. 66.—*Lord Bloomfield to Lord J. Russell.*—(*Rec. October* 29.)

MY LORD, *Berlin, October* 27, 1860.

I HAVE the honour to inclose herewith translation of a paragraph which has appeared in the *Volks Zeitung*, containing an appeal from some of the members of the National Verein, of Germany, in favour of the Schleswig-Holsteiners who have been deprived of their national rights as Germans by the authority exercised over them by Denmark during the last 10 years, and inviting the public to enter into subscriptions for their relief.

I have, &c.

Lord J. Russell. BLOOMFIELD.

(*Inclosure.*)—*Extract from the "Volks Zeitung" of October* 27, 1860.

AN APPEAL.—Ten years have passed away since Schleswig-Holstein was delivered over to the Danes by German diplomacy and the force of German arms.

For ten years has Danish revenge and Danish villany been revelling in the triumph which was prepared for her by the policy and the weapons of German Cabinets; and even now the hour has not struck in which we might efface the stain which has been cast upon the national honour of Germany.

Be it therefore now our care to afford at least that personal assistance which hundreds of worthy Schleswig-Holsteiners, who have been driven by the Danes from their trade and occupations, from their houses and their homes, now require at the hands of Germany.

We open, therefore, hereby, in pursuance of the resolution of the General Assembly of the National Union of the 4th September,

a subscription list for the Schleswig-Holsteiner in need of pecuniary assistance.

VON BENNIGSEN.
FRIES.
DR. REYSCHER.
RUCKERT, DR. MED.
F. STREIT.

No. 67.—Lord J. Russell to Lord Bloomfield.

MY LORD, *Foreign Office, November* 6, 1860.

I HAD some conversation with Baron Schleinitz at Coblentz on the subject of Holstein and Schleswig, and I have endeavoured since I have returned home to clear up some points of difference between Prussia and Denmark with M. Falbe, the Danish Chargé d'Affaires.

I stated to Baron Schleinitz that the principle proposed by Denmark of assigning a certain amount of contribution to Holstein to the common expenses of the Monarchy, whether 850,000 rixdollars or any other sum, appeared to me a fair one.

Baron Schleinitz said that the principle was not equally applied, as Denmark was to vote her contribution every year, while the Holstein States were to have no control over the employment of their quota of contribution.

I am informed by M. Falbe that the Danish States would also contribute a fixed proportion to the common expenses of the Monarchy, and would be on a par with Holstein in this respect.

With respect to the amount of 850,000 rixdollars, the question whether that sum would be too great or too small might well be matter of negotiation and compromise.

Baron Schleinitz complained generally that in Holstein and in Schleswig there was no equality of rights with the inhabitants of Denmark Proper.

Upon this question, M. Falbe replied that, as far as Holstein was concerned, if some laws there, of the press for instance, were more restrictive in Holstein than in Denmark, it was because the laws of the German Confederation would not permit the Danish Government to give to Holstein laws equally liberal with those which prevailed in Denmark.

It appears to Her Majesty's Government, with respect to the proposals of Denmark, that the British Government is bound to allow that the tendency to concession which has been shown must be acknowledged by Her Majesty's Government, and should, if possible, be turned to the advantage of peace and conciliation by that of the Prince Regent of Prussia.

With respect to the principle of a fixed amount of contribution by Holstein to the common expenses of the Danish Monarchy, it appears to Her Majesty's Government that the principle, if equally applied, might be adopted, that is to say, if a fixed sum is contributed by Holstein, a fixed sum should be contributed by Denmark. If the whole sum is left entirely to the disposition of the Executive, that principle should be adopted both for Denmark and Holstein. If the application is liable to inquiry by the Danish Chamber, the application of the Holstein quota should be liable to inquiry by the Holstein States. Only it is clear that only one Executive body can apply the sums for Navy, Army, and Civil List, intended for the defence of the Monarchy.

Of course this observation does not apply to the Militia, or to sums applicable to local defence.

The amount of the Holstein contribution might be fairly examined by a Commission, composed of a Dane, a German and an Arbiter to be chosen by Great Britain.

I proceed to make some observations regarding Schleswig.

The proposal made some years ago by Lord Palmerston that Schleswig should be divided into a Danish and German portion was in itself a just and equitable proposition. But as it will not now be listened to by any Danish statesman, it might be considered whether, in the spirit of that proposal, the debateable land, as it may be called, might not be narrowed; that is to say, whether a portion might not be considered the Danish Division, another portion the German Division, and a third portion the Mixed Division.

The evils and inconveniences of treating the German inhabitants in a different manner to the Danes with regard to religious instruction, and with regard to education in public schools, would then be confined within the smallest compass, and being no longer the field of combat of opposing nationalities, common interests and natural sympathies might in time establish harmony and goodwill.

I have to instruct your Lordship to read this despatch to Baron Schleinitz.

I am, &c.

Lord Bloomfield. J. RUSSELL.

No. 70.—Baron Schleinitz to Count Bernstorff:—(Communicated to Lord J. Russell by Count Bernstorff, November 15.)

(Translation.) *Berlin, November 8, 1860.*

I HAVE the honour to forward herewith to your Excellency copy of a memorandum which Lord Bloomfield, by the instructions of his Government, has confidentially communicated to me, in order to make known to us the steps which the Danish Government

intends to take for arranging the differences in the matter of the Constitution of Holstein.

According to that memorandum, the Danish Cabinet now wishes to make it understood that, under present circumstances, and with the excited state of feeling prevailing in Holstein, it is at this moment impossible to settle definitively the position to be given to the Duchy in regard to the whole Constitution of the Monarchy. A mere provisional arrangement rather is to be made, which may leave the necessary room for a peaceable transaction between the Government and the States.

Your Excellency will readily understand how painfully we must have been surprised by this information.

Nine years have already passed away without result since the promise of a Constitution made in 1851-52. When, a year ago, the Federal Assembly would have at length proceeded to measures of execution, the Royal-Ducal Government could not ward off this menacing step but by the promise that negotiations should forthwith be opened with the Representatives of the country. This year also is gone by without anything being done; and now, at the close, it is plainly asserted that the settlement of the affair is made impossible by the excited state of public opinion.

If such excitement really exists, the cause of it is the fact that the promises made still await their fulfilment. On the other hand, the most urgent necessity is, that this matter should be brought to final issue as speedily as possible.

In what way does the Government propose to arrange matters in the interim? Its propositions in this respect are not less unsatisfactory.

It is well known that the Confederation, by its resolution of the 8th March last, declared it to be indispensably necessary that in the interval occurring before the position of the Constitution should be definitively re-established, all proposed laws for the common affairs of the Monarchy to be brought before the Council of the Kingdom (Reichsrath) shall, in so far as they may be of validity in Holstein, be also laid before the States of Holstein, and that no law relative to common affairs, especially financial affairs, may be made current for Holstein until it shall have received the assent of the States of the Duchy.

The present propositions of Denmark are very far from coming to the above resolution.

It is true that in the case of laws affecting the rights of persons and property, the right of withholding assent is to be granted to the States; but in financial matters—and it is these particularly that are most important—they will have no voice. The Government will, of its own full power, determine the *aversum*, which

would be contributable by the Duchy, in a certain degree as a tribute, for the common wants of the Monarchy. It will fix the amount of this *aversum* in proportion to the sums which it has levied in the last 6 years, in this case also without the assent of the States, and to an amount which has already been the subject of many complaints. No voice is to be allowed to the States of Holstein in regard to the appropriation of this *aversum*. It is only in the case of an increase thereof being demanded that their assent will be asked for.

It is evident that the position of Holstein, according to this arrangement, would relatively be very unequal to that of the other parts of the Monarchy which are represented in the Council of the Kingdom, for the Council would consider and would have a deciding vote both on the tax and its appropriation; and it is clear that there is an imminent and justifiable apprehension that, under such circumstances, the wealth of the Duchy would have to subserve not so much its own interest as those of other parts of the territory.

Hence it appears evident that, in assuming that the proposals would confer upon the States of Holstein, in respect of the affairs appertaining to their Duchy, practically the exercise of the same control over them as that which belongs to the Reicharath (Council) over the affairs of the other portions of the Monarchy, the memorandum of the London Cabinet, in its hope that the propositions of Denmark may find approval, is building upon an unfounded hypothesis.

We have already frequently pointed out how contrary to justice it is altogether that the Danish Government should continue to retain in force the whole constitution of the State, especially the Council of the Kingdom which it has itself originated, after having been compelled to admit that, by right, this does not subsist as respects Holstein. The Council should constitute a common representation for common interests. It has ceased to be a common representation since Holstein has been separated from it. Nevertheless, it decides upon matters common to all, and therefore, upon the weightiest interests of the Duchy of Holstein, which is not represented by it. How irregular this is—how necessarily the abolition of the Reichsrath was altogether implied in the separation of Holstein, is at once evident to an unprejudiced eye. But the adoption of the present propositions of Denmark would implicitly include, at the same time, an approval of the continuance of the Reichsrath; and it is not easy to foresee when the interim state, founded in this way, will be brought to a close.

But however the propositions of Denmark may be considered, the Confederation, at all events, cannot, as the London Cabinet

appears to assume, feel itself empowered to agree with Denmark on the settlement of affairs upon this basis, and Prussia also is therefore not in a position to act in this sense at Frankfort, in accordance with the wish of Lord John Russell. The question here is that of the rights of the States which it is not in the province of the Confederation to settle. Upon this the Danish Government may enter into negotiations with the States. If it have their assent there will not be anything to say against it on the part of the Confederation. But the propositions do not appear to be of a nature such that the Confederation could use its influence with the States for their assent, and it could not admit the validity of any arrangement which the Government might make in accordance with these propositions so long as the assent of the States should be withheld from them.

As your Excellency will see by the conclusion of the memorandum, the Copenhagen Cabinet thinks it can further an understanding upon the question of Holstein by the offer of certain concessions in respect of Schleswig.

We may abstain from going into a detailed consideration of the value of the measures put forward because the hypothesis with which they were, as an essential condition, connected, is, we are convinced, entirely inacceptable by the Confederation.

No right of intervention in the affairs of Schleswig is thereby granted to the German Confederation. All concessions to be made to that Duchy are exclusively understood as emanating from the free will of the Government of Denmark, and are not interpreted as an admission of the authority of the Confederation in reference to Schleswig. To this the Confederation will never agree.

It is certainly quite correct—and this we have always admitted—that the Duchy of Schleswig does not appertain to the body of the German Confederation, and thus it is so far not subject to the authority of the Confederation. But it is, nevertheless, quite in consistency with this that the King of Denmark, as Duke of Schleswig, has contracted, for the sake of the settlement of the related claims of Holstein, certain international obligations towards the German Confederation in respect of Schleswig, and is bound to fulfil them.

In regard to this, I may refer to our detailed memorandum of 4 June, which, at the time, your Excellency also brought to the knowledge of the English Cabinet.

The spirit in which England has so frequently in other places cast its weight in the scale, where it was available in obtaining for peoples liberties against their Governments which until then did not belong to them according to law, and the principles respecting national rights which recently dictated the despatch of Lord John

Russell on the 27th of last October to Sir James Hudson, in Turin, will not permit us to doubt that, in the case between Denmark and Germany, in which the question now is to defend the well-grounded and documented liberties of the States, Great Britain will have no hesitation to use its whole influence with the Cabinet of Copenhagen for obtaining what is right.

Your Excellency is authorized to acquaint Lord John Russell with the contents of this despatch, in reply to the memorandum communicated to us.

Count Bernstorff. SCHLEINITZ.

No. 81.—*Lord J. Russell to Mr. Paget.*

SIR, *Foreign Office, December* 8, 1860.

I SEND you a copy of a despatch from Baron Schleinitz to Count Bernstorff, and a copy of the answer I have given to it in a despatch to Mr. Lowther.

You will observe that I have stated in this despatch the engagements which, in the opinion of Her Majesty's Government, His Danish Majesty is bound in honour to fulfil.

"He is bound," I have stated," "not to incorporate Schleswig with Denmark; to maintain in Schleswig representative States; and to protect the German and Danish nationalities in the Duchy of Schleswig."

It appears to Her Majesty's Government that whatever may be the binding force of the engagements entered into with Austria and Prussia, the King of Denmark is bound in honour to fulfil these conditions. He proclaimed them publicly; he made them known, not only to his subjects but to the Representatives of foreign Powers; nor is their fulfilment less his interest than his obligation. His German subjects in Schleswig ought to feel that they enjoy, under his rule, equality of rights with their Danish fellow-subjects. They will then feel a loyal attachment to the Danish Monarchy, and a sincere desire to preserve it unimpaired.

If, on the contrary, the education of their children at the common schools, and their worship at their parish church, is trammelled with vexatious regulations, and the Government appears to be animated by a desire to depress the nationality of subjects of German origin, unhappy consequences may follow.

Should the German Diet proceed to enforce its resolutions of March last, the neighbouring Duchy of Schleswig is sure to be the scene of agitation, perhaps of tumult and revolt. In such an emergency, the King of Denmark will feel the value of having made such concessions to the German inhabitants of Schleswig as shall raise him above all suspicion of bad faith, and all charges of

placing an intelligent and industrious portion of his subjects in a position of odious inferiority.

You will read this despatch, together with that to Mr. Lowther, to M. Hall, and give him copies of them. I am, &c.

A. Paget, Esq. J. RUSSELL.

No. 82.—Lord J. Russell to Mr. Lowther.

SIR, *Foreign Office, December* 8, 1860.

HER Majesty's Government have carefully considered the despatch of Baron Schleinitz to Count Bernstorff, of the 8th ultimo, of which a copy is herewith inclosed for your information.

The first remark I would make upon that despatch is, that the Prussian Government appear to misunderstand the position of Her Majesty's Government in respect to the memorandum delivered to the Court of Berlin. The propositions therein contained are the propositions of the Government of Denmark. Her Majesty's Government have not recommended them for acceptance; they have not even said that they might form the basis of a settlement; all that they have said is, that they hoped an opening for negotiation might be found in them.

A further remark I have to make is, that Her Majesty's Government by no means understood that the Holstein contribution proposed by Denmark was to be taken from Holstein without any power of inquiry as to its appropriation. On the contrary, they would have thought a demand on the part of Prussia that the contribution of Denmark to general and common expenses should be also a fixed sum, and that the States of Holstein should enjoy, to a equal extent with the "Reichsrath," a power of examining the ue appropriation of this sum, and to remonstrate against any malrsation, would be a demand quite in conformity with the Danish emorandum.

It is obvious that Denmark being an independent State must aintain its Monarchy, its army, and its navy, in a manner befitting rank and position as such; nor can it be in principle unreasonle to ask that the States of Holstein and Lauenburg should ntribute to maintain the Monarchy, the army, and navy of the ngdom.

Having endeavoured to remove this misapprehension, I will prod to define the position of Denmark and that of Her Majesty's vernment in relation to this correspondence.

It has been the desire of Denmark to show a willingness to conte, without admitting a right of intervention in the affairs of leswig on the part of the German Confederation.

The Danish Government have argued that as Great Britain d not be suspected of claiming any such right, it was more

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to Her Majesty's Governmen
substance of an annex to the
1851, says: "The Imperial
competence of the King to a
wig and Holstein, as relates t
this principle—that the auth
fore, also the competence of
that alone, cannot have any f
the Confederation, and conse

In their form, the promises of the King of Denmark were made, in the first instance, to his own subjects. But the despatch of the Court of Vienna of the 6th of December, 1851, and the reply of the Danish Minister of Foreign Affairs, together with the nearly simultaneous proclamation of the King of Denmark, tend to invest these promises with the value, though not the exact form, of an engagement.

The Imperial Minister defines the meaning of the programme of the King of Denmark; asks for "the binding form of a declaration made at the command of His Majesty the King," and ends with a voluntary offer, upon those terms, to lay aside the mandate of Austria and Prussia, as representing the German Confederation, and to provide for the evacuation of Holstein.

On the 29th of January, 1852, the Danish Minister for Foreign Affairs made, "in furtherance of the authority conferred upon me from the highest quarter, the declaration that the King our Master acknowledges, as being in coincidence with his own, that interpretation of the supreme intentions communicated to the Courts of Berlin and Vienna, which is given in the despatch of the Imperial Court of Vienna of the 26th of December of last year, and the annex thereto," &c.

Next, as to the nature of the promises made. These are;

1. The King of Denmark promises that there should be no incorporation of the Duchy of Schleswig with the Kingdom, nor should any measure tending thereto be adopted.

2. The Proclamation of the 23rd of January, 1852, promises constitutional development of the State of Schleswig, and that the law to be framed for that object will especially contain the necessary provisions for procuring a perfectly equal settlement, and effectual protection to the Danish and German nationalities in the said Duchy.

There can be no doubt, in the opinion of Her Majesty's Government, that these promises constitute an engagement which His Danish Majesty is bound in honour to fulfil. He is bound not to incorporate Schleswig with Denmark; to maintain in Schleswig representative States; and to protect the Danish and German nationalities in the Duchy of Schleswig.

But neither in form nor in substance, as it appears to Her Majesty's Government, do these promises give a right to Austria Prussia, or to the German Confederation collectively, to interfere in all the details of administration in the Danish Duchy of Schleswig. If Schleswig were incorporated with Denmark—if Schleswig were deprived of its separate Constitution—Germany might claim a right to interfere. But if the regulation of each church and each school in Schleswig were to be the subject of inter-

ference by the German Confederation, it is clear that the sovereign rights of the King of Denmark would exist only in name.

Her Majesty's Government will always, on their part, use any influence they may possess with the Court of Denmark to secure the protection of the German inhabitants of Schleswig.

But when the Prussian Government refers to the sentiments recently expressed by Her Majesty's Government in behalf of Italian nationality, the Prussian Government must be reminded that there are in the Duchy of Schleswig 140,000 Danes, and that the remaining population is not purely German; while neither in the States of the Church, nor in the Kingdom of the Two Sicilies, was there any mixed population of any other race with Italians.

In fine, whether we regard the form of the engagements taken by the King of Denmark towards Austria, Prussia, and the German Confederation, or whether we regard the susceptibilities of the Danish Government, the mixture of races in Schleswig, and the just regards due to Germans and Danes alike, Her Majesty's Government are persuaded that there never was a question which more imperatively demanded a temperate consideration, or on which a beginning of strife would be more injurious to all the interests concerned.

I am, &c.

W. Lowther, Esq. J. RUSSELL.

No. 83.—*M. Hall to M. de Bille.*—(*Communicated to Lord J. Russell by M. de Bille, December* 10.)

MONSIEUR, *Copenhague, le* 20 *Novembre*, 1860.

PLUSIEURS fois le Ministre des Affaires Etrangères est revenu dans ses dépêches à Mr. Paget sur les procédés des autorités locales du Slesvig, nommément en affaires électorales.

D'après l'Article XIX, No. 3, de la Constitution du Duché de Slesvig une des conditions dont dépend le droit d'être inscrit sur les listes électorales est, que l'individu ait la réputation intacte:—"Celui contre lequel on aura intenté un procès criminel, sans qu'il en ait été complètement déchargé, sera donc retranché des listes. Il en sera de même de ceux auxquels le Roi aura fait grâce en supprimant l'instruction et la punition des délits commis par eux, à moins qu'il ne plaise à Sa Majesté par un Acte Spécial de sa grâce de les réintégrer dans leurs droits électoraux."

A en croire les journaux Allemands qui selon leur habitude déclament avec le plus grand emportement contre tout ce qui se fait dans le Slesvig, sans règler un peu leur animadversion sur ce qu'ils voient tous les jours dans leurs propres pays, d'un côté l'administration se servirait de cette disposition comme d'une arme pour frapper tous ceux dont les opinions politiques ne seraient pas en parfaite harmonie avec les principes qui guident le Gouvernement,

et de l'autre le Roi n'accorderait que très difficilement cette grâce dont dépend la réhabilitation politique du coupable.

Je sais par expérience combien il est difficile de combattre de telles appréciations qui, à force d'être répétées sans cesse, finissent par prendre la consistance de préventions invincibles. La presse est une tribune toujours ouverte qui domine l'opinion publique et, grâce à l'usage et la connaissance plus universels de sa langue, l'Allemagne en use à sa convenance, tandisque la voix de notre presse ne retentit guère au delà de nos frontières. Mais je compte ur l'esprit éclairé des hommes d'Etat Anglais et je m'en repose sur otre zéle, Monsieur, pour que cette lutte entre un aggresseur qui tant d'armes à sa disposition et un défenseur qui n'en a que son roit ne soit pas trop inégale.

Pour vous mettre à même, Monsieur, de prouver à Lord John ussell combien il y a d'exagération et d'injustice dans le blâme u'on a voulu infliger au Gouvernement du Roi en matière élec- orale, je vous ferai connaître la résolution la plus récente que le oi vient de prendre à l'endroit de la ville de Husum.

En date du 21 Mai, 1849, l'adresse suivante fut présentée au agistrat de cette ville :

" Les citoyens et habitants de la ville de Husum, en suivant ur intime conviction et en écoutant la voix de leur cœur, déclarent mme leur opinion bien arrêtée et leur vœu sincère :

" Que le Roi de Danemark, Fréderic VII, vu qu'il a déjà pour deuxième fois envahi le Duché de Slesvig-Holstein d'une guerre juste, est par là déchu de sa couronne Ducale ; et

" Que l'union personnelle avec la nation Danoise ennemie est et stera abolie pour toujours.

" Les Soussignés ont la pleine conviction que le Magistrat et le nseil Communal ont les mêmes vues sur ces questions. Mais ils t voulu donner par leurs signatures à leurs représentants la certi- le que le vœu exprimé est devenu général aussi dans cette ville, ils regardent comme assez justifiée leur prière que le Magistrat et Conseil Commnnal veuille déclarer publiquement au nom de la e de Husum, et porter à la connaissance de la Diète de Franc- , que la ville de Husum ne reconnaît plus le Roi Fréderic VII r Duc de Slesvig-Holstein, et qu'elle désire que l'union person- e avec le Danemarc soit dissoute à jamais."

Grâce à l'amnistie générale accordée par le Roi, cette adresse pas été faite l'objet de poursuite criminelle ; mais, vis-à-vis des lances manifestées des signataires, l'Administration a cru devoir ancher ces individus des listes.

Par une Résolution Spéciale du 11 de ce mois le Roi a daigné tanément leur rendre le droit électoral.

Voilà, Monsieur, des faits qui parlent plus haut par eux-mêmes



To our satisfaction, we may understand from Lord John Russell's last despatch, that it was not the intention of the British Government to recommend the acceptance of the propositions of the Copenhagen Cabinet, nor even to mention them as suited to form the basis for a settlement.

It was also offered by the Danish Government that the contribution of Holstein to the common expenses of the Monarchy, which had been calculated hitherto upon its partial estimate, should be fixed once for all, and that this should be reckoned on the average amount of the last years. But in this it was expressly added that so long as there should be no necessity to increase this contribution, no control should be allowed to the States of Holstein over the appropriation thereof. It must be obvious how unequal this would make the position of Holstein, compared with that of the territories represented in the Reichsrath; as the Reichsrath has to agree to the budget in all its separate positions, and to superintend its appropriation.

Your Excellency will now see from the inclosure that the London Cabinet also did not understand that the States of Holstein should be deprived of the right to inquire into the appropriation of the contribution.

Lord John Russell says, in the further course of his despatch, that the British Government would be glad to see all parts of the Danish Monarchy fairly represented in a Parliament at Copenhagen, and, if this be unattainable, that the Kingdom and the Duchies should each bear a proportionate part of the common burthens. We have not the smallest objection to this on our part. If, therefore, Lord John Russell thinks he should infer from my communication of the 8th ultimo, that we should reject a plan having this object, it can only arise from a misunderstanding, as must be the case if it be supposed that we rejected in a former instance the plan of an equal representation of the different parts of the territory; on the contrary, we have always urged that the promise given according to which the Monarchy should have a constitution in which the individual portions of the country should hold a position of equal right with one another, should finally be fulfilled.

We have been especially satisfied by the last part of the despatch of the 8th instant, in which the British Government does not hesitate to acknowledge expressly the existing international obligations of Denmark towards the German Confederation, in respect of Schleswig, which have, on the part of Denmark, hitherto been constantly denied. It is a matter of course that these obligations cannot involve any interference of the Confederation with the

details of the administration; but, indeed, no interference of this nature has hitherto ever been claimed.

We feel ourselves assured that the candid intimation to us of Lord John Russell's conviction, in reference to Denmark's obligations on account of Schleswig, cannot fail to have its influence on the Cabinet of Copenhagen, the more especially as the latter can have no doubt that the English Court is unprejudiced in the question, and that its dispositions are benevolent and amicable.

One word more in conclusion, to which I am led by an observation of Lord John Russell towards the close of his despatch.

When I, in my communication of the 8th November, made a reference to Lord John Russell's despatch to Sir James Hudson, then recently issued, my allusion was not intended to be to the principles therein expressed, as to the right of the nationality, but rather to the principles respecting the right of a people in regard to its Government. I must look to those principles for a security that England will interest herself also for the rights of the States of Holstein in regard to their Government.

Your Excellency will communicate the contents of this despatch confidentially to Lord John Russell, with assurances of our thanks for the explanations given to us.

By direction,

Count Bernstorff.

GRUNER.

ORDONNANCE du Roi des Français, qui prescrit la publication de la Convention, conclue à Constantinople, le 25 *Novembre,* 1838, *et formant Appendice aux Capitulations garanties à la France par la Porte Ottomane.—Neuilly, le* 3 *Juin,* 1839.

Au Palais de Neuilly, le 3 *Juin,* 1839.

LOUIS-PHILIPPE, Roi des Français, à tous présents et à venir, Salut.

Savoir faisons qu'entre nous et Sa Hautesse le Sultan Mahmoud, il a été conclu à Constantinople, le 25 Novembre de l'année dernière, une Convention formant appendice aux capitulations garanties à la France par la Porte Ottomane;

Convention dont les ratifications ont été respectivement échangées à Constantinople le 21 Mars de la présente année, et dont la teneur suit:

Convention formant Appendice aux Capitulations garanties à la France par la Porte-Ottomane, et amendant ou modifiant, dans l'intérêt du Commerce et de la Navigation des deux Pays, certaines Stipulations qui étaient contenues dans les Capitulations.

Pendant la longue alliance qui a heureusement subsisté entre la France et la Sublime Porte, des capitulations obtenues de la Porte, et des Traités conclus entre les deux Puissances ont réglé le taux des droits payables sur les marchandises exportées de Turquie, comme sur celles importées dans les domaines du Grand Seigneur, et ont établi et consacré les droits, priviléges, immunités et obligations des marchands Français trafiquant ou résidant dans l'étendue de l'Empire Ottoman. Cependant, depuis l'époque où les capitulations ont été revisées pour la dernière fois, des changements de différente nature sont survenus, tant dans l'administration intérieure de l'Empire Turc que dans ses relations extérieures avec les autres Puissances, et Sa Majesté le Roi des Français et Sa Hautesse le Sultan sont convenus de régler de nouveau, par un acte spécial et additionnel, les rapports commerciaux de leurs sujets, le tout dans le but d'augmenter le commerce entre leurs Etats respectifs, comme dans celui de faciliter davantage l'échange des produits de l'un des deux pays avec ceux de l'autre.

A cet effet, ils ont nommé pour leurs Plénipotentiaires:

Sa Majesté le Roi des Français, M. Albin-Reine, Baron Roussin, Vice-Amiral, Pair de France, Membre de l'Académie des Sciences, Grand-Croix de l'Ordre Royal de la Légion d'Honneur, décoré du Grand Ordre du Nichani Iftihar, Grand-Croix de l'Ordre Grec du Sauveur, Commandeur de l'Ordre de la Croix du Sud du Brésil, son Ambassadeur près la Sublime Porte:

Et Sa Hautesse le Sultan, le très-excellent et très-distingué Mehemet-Nourry-Effendi, Conseiller d'Etat au Département des Affaires Etrangères, tenant le Portefeuille de ce Ministère par intérim, décoré de l'Ordre du Nichani Iftihar de première classe, Grand-Croix de l'Ordre Belge de Léopold; et le très-excellent et très-distingué Mustapha-Kiani-Bey, Membre du Conseil Suprême d'Etat, Président du Conseil d'Utilité Publique et du Commerce, Ministre d'Etat de première classe, revêtu des décorations affectées à ces deux emplois;

Lesquels, après s'être donné réciproquement communication de leurs pleins pouvoirs, trouvés dans la bonne et due forme, sont tombés d'accord sur les Articles suivants:

ART. I. Tous les droits, priviléges et immunités qui ont été conférés aux sujets ou aux bâtiments Français par les capitulations et les Traités existants, sont confirmés aujourd'hui et pour toujours, à l'exception de ceux qui vont être spécialement modifiés par la présente Convention: et il est, en outre, expressément entendu

que tous les droits, priviléges et immunités que la Sublime Porte accorde aujourd'hui, ou pourrait accorder à l'avenir, aux bâtiments et aux sujets de toute autre Puissance étrangère, seront également accordés aux sujets et aux bâtiments Français, qui en auront, de droit, l'exercice et la jouissance.

II. Les sujets de Sa Majesté le Roi des Français ou leurs ayants cause pourront acheter dans toutes les parties de l'Empire Ottoman, soit qu'ils veuillent en faire le commerce à l'intérieur, soit qu'ils se proposent de les exporter, tous les articles, sans exception, provenant du sol ou de l'industrie de ce pays. La Sublime Porte s'engage formellement à abolir tous les monopoles qui frappent les produits de l'agriculture et les autres productions quelconques de son territoire, comme aussi elle renonce à l'usage des teskérès demandés aux autorités locales pour l'achat de ces marchandises, ou pour les transporter d'un lieu à un autre, quand elles étaient achetées. Toute tentative qui serait faite par une autorité quelconque pour forcer les sujets Français à se pourvoir de semblables permis ou teskérès sera considérée comme une infraction aux Traités, et la Sublime Porte punira immédiatement avec sévérité tous vézirs ou autres fonctionnaires auxquels on aurait une pareille infraction à reprocher, et elle indemnisera les sujets Français des pertes ou vexations dont ils pourront prouver qu'ils ont eu à souffrir.

III. Les marchands Français ou leurs ayants cause qui achèteront un objet quelconque, produit du sol ou de l'industrie de la Turquie, dans le but de le revendre pour la consommation dans l'intérieur de l'Empire Ottoman, payeront, lors de l'achat ou de la vente, les mêmes droits qui sont payés, dans les circonstances analogues, par les sujets Musulmans ou par les rayas les plus favorisés parmi ceux qui se livrent au commerce intérieur.

IV. Tout article, produit du sol ou de l'industrie de la Turquie, acheté pour l'exportation, sera transporté, libre de toute espèce de charge et de droits, à un lieu convenable d'embarquement, par les négociants Français ou leurs ayants cause. Arrivé là, il payera, à son entrée, un droit fixe de 9 pour cent de sa valeur, en remplacement des anciens droits de commerce intérieur supprimés par la présente Convention. A sa sortie il payera le droit de 3 pour cent, anciennement établi, et qui demeure subsistant. Il est, toutefois, bien entendu que tout article acheté au lieu d'embarquement pour l'exportation, et qui aura déjà payé, à son entrée, le droit intérieur, ne sera plus soumis qu'au seul droit primitif de 3 pour cent.

V. Tout article, produit du sol ou de l'industrie de la France et de ses dépendances, et toutes marchandises de quelque espèce qu'elles soient, embarquées sur des bâtiments Français et étant la propriété de sujets Français, ou apportées, par terre ou par mer, d'autres pays, par des sujets Français, seront admis comme ceux-

rieurement dans toutes les parties de l'Empire Ottoman, sans aucune exception, moyennant un droit de 3 pour cent, calculé sur la valeur de ces articles.

En remplacement de tous les droits de commerce intérieur qui se perçoivent aujourd'hui sur lesdites marchandises, le négociant Français qui les importera, soit qu'il les vende au lieu d'arrivée, soit qu'il les expédie dans l'intérieur pour les y vendre, payera un droit additionnel de 2 pour cent. Si, ensuite, ces marchandises sont revendues à l'intérieur ou à l'extérieur, il ne sera plus exigé aucun droit, ni du vendeur, ni de l'acheteur, ni de celui qui, les ayant achetées, désirera les expédier au dehors.

Les marchandises qui auront payé l'ancien droit d'importation de 3 pour cent dans un port pourront être envoyées dans un autre port, franches de tout droit, et ce n'est que lorsqu'elles y seront vendues ou transportées de celui-ci dans l'intérieur du pays, que le droit additionnel de 2 pour cent devra être acquitté.

Il demeure entendu que le Gouvernement de Sa Majesté le Roi des Français ne prétend pas, soit par cet Article, soit par aucun autre du présent Traité, stipuler au delà du sens naturel et précis des termes employés, ni priver, en aucune manière, le Gouvernement de Sa Hautesse de l'exercice de ses droits d'administration intérieure, en tant, toutefois, que ces droits ne porteront pas une atteinte manifeste aux stipulations des anciens Traités et aux priviléges accordés par la présente Convention aux sujets Français et à leurs propriétés.

VI. Les sujets Français ou leurs ayants cause pourront librement trafiquer, dans toutes les parties de l'Empire Ottoman, des marchandises apportées des pays étrangers; et si ces marchandises n'ont payé à leur entrée que le droit d'importation, le négociant Français, ou son ayant cause, aura la faculté d'en trafiquer en payant le droit additionnel de 2 pour cent auquel il serait soumis pour la vente des propres marchandises qu'il aurait lui-même importées, ou pour leur transmission faite dans l'intérieur avec l'intention de les y vendre. Ce payement une fois acquitté, ces marchandises seront libres de tous autres droits, quelle que soit la destination ultérieure qui sera donnée à ces marchandises.

VII. Aucun droit quelconque ne sera prélevé sur les marchandises Françaises, produit du sol ou de l'industrie de la France et de ses dépendances, ni sur les marchandises provenant du sol ou de l'industrie de tout autre pays étranger, quand ces deux sortes de marchandises, embarquées sur des bâtiments Français appartenant à des sujets Français, passeront par les détroits des Dardanelles, du Bosphore ou de la mer Noire, soit que ces marchandises traversent ces détroits sur les bâtiments, qui les ont apportées, ou qu'elles soient transbordées sur d'autres bâtiments, ou que devant être vendues ailleurs, elles soient, pour un

temps limité, déposées à terre pour être mises à bord d'autres bâtiments et continuer leur voyage.

Toutes les marchandises importées en Turquie pour être transportées en d'autres pays, ou qui, restant, entre les mains de l'importateur, seront expédiées par lui dans d'autres pays pour y être vendues, ne payeront que le premier droit d'importation de 3 pour cent, sans que, sous aucun prétexte, on puisse les assujettir à d'autres droits.

VIII. Les fermans exigés des bâtiments marchands Français, à leur passage dans les Dardanelles et dans le Bosphore, leur seront toujours délivrés de manière à leur occasionner le moins de retard possible.

IX. La Sublime Porte consent à ce que la législation créée par la présente Convention soit exécutable dans toutes les provinces de l'Empire Ottoman (c'est-à-dire dans les possessions de Sa Hautesse situées en Europe et en Asie, en Egypte et dans les autres parties de l'Afrique appartenant à la Sublime Porte), et qu'elle soit applicable à toutes les classes de sujets Ottomans.

La Sublime Porte déclare aussi ne point s'opposer à ce que les autres puissances étrangères cherchent à faire jouir leur commerce des stipulations contenues dans la présente Convention.

X. Suivant la coutume établie entre la France et la Sublime Porte, et afin de prévenir toute difficulté et tout retard dans l'estimation de la valeur des articles importés en Turquie ou exportés des Etats Ottomans par les sujets Français, des Commissaires versés dans la connaissance du commerce des deux pays ont été nommés, tous les 14 ans, pour fixer, par un tarif, la somme d'argent en monnaie du Grand Seigneur, qui devra être payée sur chaque article. Or le terme de 14 ans, pendant lequel le dernier tarif devait rester en vigueur, étant expiré, les Hautes Parties Contractantes sont convenues de nommer conjointement de nouveaux Commissaires, pour fixer et déterminer le montant en argent qui doit être payé par les sujets Français, comme droit de 3 pour cent, sur la valeur de tous les articles de commerce importés et exportés par eux. Lesdits Commissaires s'occuperont de régler avec équité le mode de payement des nouveaux droits auxquels la présente Convention soumet les produits turcs destinés à l'exportation, et détermineront les lieux d'embarquement dans lesquels l'acquittement de ces droits sera le plus facile.

Le nouveau tarif établi restera en vigueur pendant 7 années, à dater de sa fixation. Après ce terme, chacune des Hautes Parties Contractantes aura droit d'en demander la révision. Mais si, pendant les 6 mois qui suivront l'expiration des 7 premières années, ni l'une ni l'autre n'use de cette faculté, le tarif continuera d'avoir force de loi pour 7 autres années, à dater du jour où les premières

seront expirées, et il en sera de même à la fin de chaque période successive de 7 années.

CONCLUSION.

La présente Convention sera ratifiée; les ratifications en seront échangées à Constantinople, dans l'espace de 3 mois, ou plus tôt, si faire se peut, et elle ne commencera, toutefois, à être mise à exécution qu'au mois de Mars, 1839.

Les 10 Articles qui précèdent ayant été arrêtés et conclus, le présent acte a été signé par nous, et il est rémis à leurs Excellences les Plénipotentiaires de la Sublime Porte, en échange de celui qu'ils nous remettent eux-mêmes.

Fait à Constantinople, le 25 Novembre, 1838.

Le Vice-Amiral, Pair de France, Ambassadeur du Roi,
(L.S.) BARON ROUSSIN.

MANDONS et ordonnons qu'en conséquence les présentes lettres, evêtues du sceau de l'Etat, soient publiées partout où besoin sera, t insérées au Bulletin des lois, afin qu'elles soient notoires à tous t à chacun.

Notre Garde des Sceaux, Ministre et Secrétaire d'Etat au Département de la Justice et des Cultes, et Notre Ministre et Secréire d'Etat au Département des Affaires Etrangères, Président de otre Conseil, sont chargés, chacun en ce qui le concerne, de surveiller ladite publication.

Donné en notre Palais de Neuilly, le 3me jour du mois de Juin l'an 1839.

Par le Roi: LOUIS-PHILIPPE.

Ministre et Secrétaire d'Etat au Département des Affaires Etrangères, Président du Conseil,
MAL. DUC DE DALMATIE.

CLARATIONS exchanged between Portugal and Brazil, relative to Differential Duties.—Rio de Janeiro, May, 1848.

PORTUGUESE DECLARATION.

nslation.) *Rio de Janeiro, May* 18, 1848.

HE Undersigned, Envoy Extraordinary and Minister Plenipoiary of Her Majesty the Queen of Portugal, having acknowd at the proper time the receipt of the circular dated 4th ber last, from the Department of Foreign Affairs of this ire, accompanied by the Imperial Decree of the 1st of the sam h, respecting differential duties, with a declaration on his pa

that he was going to acquaint the Government of his august Sovereign with the contents of that communication, now finds himself in a position to give a definitive answer to it, by virtue of the orders which he has just received from the aforesaid Government of Her Most Faithful Majesty.

Addressing himself, then, to the most illustrious and most excellent Señor Antonio Paulino Limpio de Abreu, of His Majesty the Emperor of Brazil's Council, his Minister and Secretary of State for Foreign Affairs, the Undersigned has the honour to declare to his Excellency, in the name of the Government of his august Sovereign, with reference to the above-mentioned circular of the 4th of October last and the Decree which accompanied it, that as the proper orders are already in full operation in Portugal, in so far as regards the direct trade, for the reception of Brazilian ships in our ports on the same footing as the national ships, in regard to all port dues or charges payable to the State or to private persons for services necessary to navigation, as well as in regard to Custom-House dues, the Undersigned hopes that when his Excellency the Minister for Foreign Affairs shall vouchsafe to acknowledge the receipt of the present note, it may be determined that Portuguese ships shall be treated in like manner in the ports of this Empire, conformably with Article III of the aforesaid Decree and the declaration made above. The Undersigned, &c.

JOSE DE VASCONCELLOS E SOUSA.

S.E. Senhor Antonio Paulino Limpo de Abreu,
Minister and Secretary of State for Foreign Affairs.

BRAZILIAN DECLARATION.

Ministry of Foreign Affairs,
(Translation.) *Rio de Janeiro, May* 19, 1848.

THE Undersigned, of His Majesty the Emperor's Council, Minister and Secretary of State for Foreign Affairs, has received the note of yesterday's date, which Señor José de Vasconcellos e Sousa, Envoy Extraordinary and Minister Plenipotentiary of Her Majesty the Most Faithful Queen, has addressed to him, declaring, in the name of his august Sovereign, and with reference to the circular from this department, dated the 4th of October last, which was accompanied by the Decree of the 1st of the same month, that in Portugal the orders were in full operation which had been issued to the effect that in regard to the direct trade Brazilian ships should be received in its ports in the same manner as the national ships, with respect to any port dues or charges payable to the State or to private persons, for services necessary to navigation, as well as with respect to Custom-House dues.

In consideration of the declaration above mentioned, made by Señor Vasconcellos e Sousa, the Undersigned has the honour to inform him in answer to his aforesaid note, and in the name of the Imperial Government, that Portuguese ships will be treated in the Empire, in the same manner as the national ships in what relates to the direct trade, and in respect to any port dues and charges payable to the State or to private persons for services necessary to navigation, as well as in respect to Custom-House dues, in conformity with the provisions of the Decree of 1st October last, when it comes into operation.

The Undersigned has the honour likewise to communicate to Señor Vasconcellos e Sousa that, in virtue of this agreement, he will this day issue orders to the Department of Marine for Portuguese ships to pay for their passports from henceforth the same as the national ships pay, so that they will thus be made equal in that respect. The Undersigned, &c.

ANTONIO PAULINO LIMPO DE ABREU.

AW of the Queen of Portugal, placing Swedish, Norwegian, and Russian Ships on the footing of National Vessels, in regard to Tonnage Dues.—Lisbon, June 25, 1849.

[ranslation.)

DONNA MARIA, by the grace of God Queen of Portugal and the lgarves, &c. We make known to all our subjects that the General ortes have decreed, and We consent to the following law.

ART. I. Swedish, Norwegian, and Russian ships shall pay the me tonnage-dues as are paid by Portuguese ships in the Custom-ouses of Portugal and the adjacent islands, and in the Custom-ouses of those provinces beyond the sea, where trade is allowed by r to all foreigners.

II. The Government is authorized to apply the provision of ticle I to the ships of other nations wherein Portuguese ships ll be admitted upon an equality in regard to tonnage dues and t charges.*

III. The instruction of Article VIII of the General Tarif for Custom-Houses remains in force, in conformity with the Law of h March, 1841.

* This provision has been applied successively, and by way of reciprocity, e following nations, Argentine Confederation, Belgium, Brasil, Bremen, Den-, France, Great Britain, Greece, Hamburg, Hanover, Lubeck, Mecklenburg-erlitz, Oldenburg, Papal States, Prussia, Russia, Sardinia, Spain, Sweden Norway, and Turkey.

IV. All laws to the contrary are repealed.

We therefore command all the authorities to whom the knowledge and execution of the said law shall appertain, that they fulfil it and observe it, and cause it to be fulfilled and observed as entirely as is contained therein.

The Extraordinary Councillor of State, Minister and Secretary of State for Financial Affairs, will have it printed, published, and circulated.

Given at the Palace of the Necessidades, 25th June, 1849.

ANTONIO JOSE D'AVILA. THE QUEEN.

DECLARATIONS exchanged between Portugal and Brazil, respecting the Powers and Privileges of Consular Agents, and the taking Charge of, and Administering Property of Deceased Subjects of their respective Nations.—Rio de Janeiro, $\frac{\text{November 18.}}{\text{December 9.}}$ 1851.*

PORTUGUESE DECLARATION.

(Translation.) *Rio de Janeiro, November* 18, 1851.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of Her Majesty the Queen of Portugal, having duly taken into consideration the Decree No. 855, published on the 13th of the month of November instant, in the official part of the "Jornal do Commercio" of this Court, which Decree establishes the exemptions, powers, and privileges of foreign Consular Agents in Brazil, and the manner in which they are to act, when there is reciprocity, in taking charge of and administering property left by deceased subjects of their nations; and in conformity with the regulations referred to in the above-mentioned Decree, the Undersigned aforesaid has the honour to address himself to the most illustrious and most excellent Senhor Paulino José Soares de Sousa, Minister and Secretary of State for Foreign Affairs to His Majesty the Emperor, in order to make arrangements for bringing those provisions into effect, in regard to Portuguese Consular Agents, under the circumstances of the above-mentioned Decree and regulations, hereto annexed as an integral and essential part of this note.

Being duly authorized to assure his Excellency the Minister of State for Foreign Affairs that the same exemptions will be granted in Portugal to the Consular Agents of this Empire, and that their respective powers and privileges, as contained in the said regula-

* See the Decree, dated March 10, 1852, promulgated by Her Most Faithful Majesty in consequence of this arrangement. Page 1274.

tions, will be determined in like manner, the Undersigned hereby formally declares the same to his said Excellency the Minister of State; and, taking advantage of the principle of Article XXIV of the aforesaid regulations, he begs that his Excellency, after condescending to acknowledge the receipt of this note, will be pleased to take the necessary measures to enable Portuguese Consular Agents to enter at once upon the exercise and enjoyment of the said powers, privileges, and exemptions.

The Undersigned, &c.

JOSE DE VASCONCELLOS E SOUZA.

BRAZILIAN DECLARATION.

Ministry of Foreign Affairs,

(Translation.) *Rio de Janeiro, December* 9, 1851.

THE Undersigned, of His Majesty the Emperor's Council, Minister and Secretary of State for Foreign Affairs, has had the honour of receiving the note dated the 18th of last month, in which Senhor José de Vasconcellos e Sousa, Envoy Extraordinary and Minister Plenipotentiary of Her Most Faithful Majesty, referring to the Decree, No. 855, and the regulations annexed, which establish the exemptions, powers and privileges of foreign Consular Agents in Brazil, and the manner in which, when there is reciprocity, they have to act in taking charge of and administering property left by deceased subjects of their respective nations, declares that he is duly authorized to give the assurance that the exemptions, powers and privileges included in those regulations will be granted to Brazilian Consular Agents in Portugal, and, taking advantage of the principle of Article XXIV of the same regulations, begs that the necessary measures may be taken to enable the Portuguese Consular Agents resident in the Empire to enter upon the enjoyment of the said powers, privileges, and exemptions.

The Imperial Government, considering the declaration which Senhor Vasconcellos e Sousa has made that his Government conforms to all the provisions of the said regulations, and that the most ample reciprocity will be observed towards the Brazilian Consular Agents resident in the Kingdom of Portugal and its dominions, will give the necessary orders that those provisions be applied to the Consular Agents and subjects of Her Most Faithful Majesty, on the clear understanding, however, that the agreement thus entered into shall cease altogether, or in part, so soon as either of the two Governments may thus declare its termination to the other.

The Undersigned, &c.

PAULINO JOSE SOARES DE SOUSA.

DECREE, regulating the Powers and Privileges of Brazilian Consular Agents in Portugal and its Dominions, in regard to taking charge of and administering Property left by deceased Brazilian Subjects.—Lisbon, March 10, 1852.

(Translation.)

In conformity with what has been arranged by the reciprocal notes of 18th November and 9th December, 1851, interchanged between my Minister at the Court of Rio de Janeiro, and the Minister and Secretary of State for Foreign Affairs of the Brazilian Empire, respecting the reciprocal observance of the exemptions, powers, and privileges of the respective Consular Agents in regard to taking charge of and administering the property left by deceased subjects of their nations, which is the purport of the regulations of the 8th of November of that year; I think it right to decide that, in Portugal, the adjacent islands, and in the provinces beyond sea where the residence of Brazilian Consular Agents is, or may hereafter be permitted, those provisions shall be put into execution with regard to Brazilian Agents and subjects which are contained in Articles II, III, IV, V, VI, VII, VIII, and XI of the said Regulations, which accompanied the Decree of the same date;* the said Articles form part of this decree, and are signed by my Ministers and Secretaries of State for Foreign Affairs and for Ecclesiastical Affairs and Justice. Those Ministers are aware of this, and will put it into execution.

Palace das Necessidades, 10th March, 1852.

THE QUEEN.

Viscount d'Almeida Garrett.

Antonio Luiz de Seabra.

ADDITIONAL ACT to the Constitutional Charter of the Portuguese Monarchy.—Lisbon, July 5, 1852.

(Translation.)

Donna Maria, by the grace of God Queen of Portugal and the Algarves, &c.

I hereby make known to all my subjects that the Cortes General have decreed, and I have sanctioned, the under-written Additional Act, which, in conformity with the provision of Article CXLIII of the Constitutional Charter of the Monarchy, is added to the Constitution of the State, and is of the following tenor:

* Vol. XLII. Page 1316.

Additional Act to the Constitutional Charter of the Monarchy.

Of the Cortes.

ART. I. It is an attribute of the Cortes to acknowledge the Regent, to elect to the regency of the Kingdom in the case foreseen in Article XCIII of the charter, and to define the limits of the Regent's authority.

§ 1. The provision of this Article in no way alters what was established by the law of 7th April, 1846, in dispensation of Article XCIII of the Constitutional Charter of the Monarchy.

§ 2. The second section of Article XV of the charter is thus amended.

II. Any Deputy who, after his election, shall receive honorary distinction, remunerative employment, or paid commission, the office being dependent on the free choice of the Government, loses his place as Deputy, and is included as regards his re-election in the provisions which are to regulate the eligibility of persons in the public service, according to what is prescribed in Article IX of this Additional Act.

§ 1. He who has to leave the Chamber, in conformity with Article XXXIII of the Charter, does not lose his place as Deputy.

§ 2. The provision of Article XXVIII of the Constitutional Charter is thus confirmed and extended.

III. In case of urgent necessity for the public service, each of the Chambers may, at the request of the Government, allow its members whose duties are performed in the capital to discharge those duties in addition to their legislative functions.

Sole §. Thus are interpreted Articles XXXI and XXXIII of the Constitutional Charter.

Of the Elections.

IV. The Deputies are appointed by direct election.

V. Every Portuguese citizen in the enjoyment of his civil and political rights is an elector, if he prove:

I. That he has a clear annual income of 100 dollars from real property, capital, commerce, business or permanent employment.

II. That he has attained his legal majority.

§ 1. Those persons are to be considered as of legal majority who, being 21 years of age, are in one of the following conditions of qualification:

I. Clergymen in holy orders;

II. Married;

III. Officers of the army or navy;

IV. Qualified by literary acquirements, in conformity with the law.

§ 2. Those who are qualified by the said literary titles are relieved from any proof of income.

VI. The following are excluded from voting:

I. Servants, amongst whom are not included the bookkeepers and clerks in houses of business, the servants of the Royal household not of the white lace, and the managers of farms and manufactories.

II. Those who are prohibited from the administration of their property, and those who have been committed on a charge ratified by the jury, or passed on to trial.

III. Freed slaves.

VII. All those who have the right of voting are capable of election as Deputies without conditions as to domicile, residence, or place of birth.

Sole §. The following are excepted:

I. Naturalized foreigners;

II. Those who have not a clear annual income of 400 dollars from the same sources as stated in Article V of this Additional Act, or who are not qualified by the degrees or literary titles referred to in section 2 of the same Article.

VIII. Those who have not the right of voting at the election of Deputies, cannot vote at the elections for any other public office.

IX. The Electoral Law will determine:

I. The practical method of the elections, and the number of Deputies in proportion to the population of the Kingdom;

II. The offices which are incompatible with the place of Deputy;

III. The cases in which, by reason of their being engaged in public functions, certain citizens must be respectively ineligible;

IV. The manner and form in which proof is to be given of income in the various continental provinces of the Kingdom, in those of the adjacent islands and beyond sea;

V. The literary titles which are supplementary to age and which relieve from proof of income.

Sole §. Thus are revoked and altered Articles LXIII, LXIV, LXV, LXVI, LXVII, LXVIII, LXIX, and LXX of the Constitutional Charter.

Of the Executive Power.

X. Every Treaty, Concordat, and Convention which the Government may enter into with any foreign Power, shall be approved before ratification by the Cortes in private session.

Sole §. Thus are modified and extended sections 8 and 14 of Article LXXV of the Constitutional Charter.

Of the Municipal Chambers.

XI. In each district (concelho) a municipal chamber, elected directly by the people, shall have the economic administration of the corporation (municipio) in conformity with the laws.

Sole §. Thus are revoked and replaced Articles CXXXIII and CXXXIV of the Constitutional Charter.

Of the National Exchequer.

XII. The taxes are voted annually; the laws which establish them are binding for one year only.

§ 1. The sums voted for any public expenditure, cannot be applied for other purposes, without a special law authorizing the transfer.

§ 2. The administration and collection of the State revenues belongs to the public treasury, save in the cases excepted by law.

§ 3. There shall be a court of accounts, the organization and attributes of which shall be regulated by law.

§ 4. Thus are modified and altered Articles CXXXVI, CXXXVII, and CXXXVIII of the Constitutional Charter.

XIII. Within the first fortnight after the constitution of the Chamber of Deputies, the Government shall lay before it the estimates of receipts and expenditure for the following year; and within one month from the same date the statement of the accounts for the preceding year, and the annual abstract finally balanced in the form prescribed by law.

Sole §. Thus are modified Articles CXXXVI, CXXXVII, and CXXXVIII of the Constitutional Charter.

General Provisions.

XIV. Each Chamber of the Cortes has a right to proceed, by means of Commissions of Inquiry, to the examination of any matter within its competency.

Sole §. Thus are supplemented and extended Article XXXVI, section 1, and Article CXXXIX of the Constitutional Charter.

XV. The provinces beyond sea may be governed by special laws, according as the circumstances of each of them may require.

§ 1. When the Cortes are not assembled, the Government, after hearing and consulting the proper authorities, may decree in council such legislative arrangements as may be considered urgent.

§ 2. So likewise the Governor-General of a province beyond sea, may, after hearing his Council of Government, take such steps as may be indispensable to provide for any necessity so urgent that it cannot be delayed for the decision of the Cortes or of the Govern-

§ 3. In both cases the Government shall submit to the Cortes, as soon as they assemble, the proceedings that have been taken.

§ 4. Thus is determined the provision of Article CXXXII of the Constitutional Charter, relative to the provinces beyond sea.

XVI. The punishment of death for political crimes is abolished; those crimes will be declared by a law.

Sole §. Thus is amplified section 18 of Article CXLV of the Constitutional Charter.

Wherefore I command all authorities to whom the knowledge and execution of this Additional Act belongs, that they fulfil it, and cause it to be fulfilled and observed to the full extent of all it contains.

The Ministers and Secretaries of State of the different departments will have it printed, published, circulated, fulfilled, and observed.

Given at the Palace das Necessidades, on the 5th of July, 1852.

THE QUEEN.

THE DUKE OF SALDANHA.
RODRIGO DA FONSECA MAGALHAES.
ANTONIO LUIZ DE SEABRA.
ANTONIO MARIA DE FONTES PEREIRA DE MELLO.
VISCOUNT D'ALMEIDA GARRETT.
ANTONIO ALUIZIO JERVIS D'ATOUGUIA.

TREATY of Friendship, Commerce, and Navigation, between Portugal and the Argentine Confederation—Signed at Buenos Ayres, August 9, 1852.

[Ratifications exchanged, July 6, 1855.]

(Translation.)

In the name of the most Holy and Indivisible Trinity.

HER Most Faithful Majesty the Queen of Portugal and the Algarves, &c., and his Excellency the Provisional Director of the Argentine Confederation, Brigadier Don Justo José de Urquiza, equally animated by the desire of drawiug closer the bonds of friendship which happily exist between the two nations, and of promoting the joint interests of their commerce and navigation, by means of a Treaty for the regulation of those interests and relations; and also taking into consideration that the Government of Her Most Faithful Majesty was the first that recognized the independence of the Argentine Confederation, they have for the above purpose appointed their Plenipotentiaries, that is to say: Her

Most Faithful Majesty the Queen of Portugal and the Algarves, &c., Leonardo de Sousa Leite Azevedo, Commander of the Military Order of St. Benedict of Aviz, decorated with various medals of different campaigns, and Her Chargé-d'Affaires and Consul General in the Argentine Confederation; and His Excellency the Provisional Director of the Argentine Confederation, Doctor D. Luiz José de la Peña, the Minister for Foreign Affairs thereof; who, after having exchanged their full powers, which they found in good and due form, have agreed upon the following Articles:

ART. I. There shall be reciprocal freedom of commerce and navigation between Her Most Faithful Majesty's States and the Argentine Confederation. The subjects of each of the respective States, may freely and securely resort to all the places, creeks, rivers, ports and localities of the other, where foreign commerce is now allowed or may be so in future; and they shall enjoy there, in regard to their properties, the same protection and the same safeguards as the natives, always conforming themselves to the laws and regulations of the country, and paying the same imposts. Nevertheless, these privileges granted to foreign commerce do not include those which are at present held or may hereafter be held by the commerce of the Riverain States of the River Plate or its affluents.

II. The respective ships of more than 120 tons burthen, which may go to the ports of either of the Contracting Parties, shall be treated both at their entrance and at their departure, on the same footing as the national ships, in regard to port, tonnage, lighthouse, and pilotage dues, as well as in regard to any other duty or impost, of whatever kind or denomination it may be, whether collected on account of the State, or for any corporations or individuals.

III. All merchandize and articles of commerce, the produce of the soil or industry of the two States respectively, the importation or exportation whereof is permitted to the national ships of one of the Contracting Parties, may also be imported or exported in the ships of the other without being subject to higher or different duties of entry or departure, of whatever denomination they may be, than if the same merchandize or articles had been imported or exported in national ships.

IV. All merchandize and all articles of commerce, not the produce of the soil or industry of the States, subject to the dominion of either of the two Contracting Parties, the exportation whereof is permitted to the national ships of one of the respective States, may be likewise exported in the ships of the other, without paying higher or different duties on leaving, of whatever denomination they may be, than if the same merchandize and articles had been exported in national ships.

V. No higher duties shall be imposed in the States of each of the Contracting Parties on the importation or exportation, legally effected, by the ships of the other, of all kinds soever of goods and merchandize, than those which may be paid by the ships of the most favoured nation, on the importation or exportation of the like goods or merchandize. In neither of the two countries shall any restriction or prohibition be placed on the importation or exportation of goods, the produce of the soil or industry of the other, which shall not be applicable to every other nation. The importation of Asiatic goods into Portugal, and the exportation of port wine from from that Kingdom, remain subject to their respective regulations.

VI. In order to enjoy the benefits of this Treaty, those ships shall be considered as Portuguese, or as belonging to the Argentine Confederation, which navigate under the flag and according to the laws of each of the respective countries to which they belong.

VII. None of the stipulations of the present Treaty shall be applicable to the coasting trade between the ports belonging to Portugal or to the Argentine Confederation, as each of the two Contracting Parties expressly reserves that trade for the national ships.

VIII. The ships of the Argentine Confederation shall be allowed to go directly from the ports of the Confederation to those of Her Most Faithful Majesty's dominions beyond sea which are or which may hereafter be open to the trade of any foreign nation, and import all merchandize and articles of commerce which shall be the produce of the soil or industry of the said Argentine Confederation, such goods not being of those kinds the importation whereof is prohibited in the said dominions, or of those which are only admitted from the other dominions of Her Most Faithful Majesty; and neither the aforesaid ships of the Argentine Confederation, nor the said merchandize and articles of commerce so imported, shall pay higher or different duties there, than are paid by Portuguese ships which import the like merchandize or articles of commerce, or than would have to be paid for goods being the produce of the soil or industry of any foreign country the importation whereof into the said dominions should be allowed to Portuguese ships. The ships of the Argentine Confederation shall likewise be allowed to export from Her Most Faithful Majesty's dominions beyond sea, for any place not belonging to the Crown of Portugal, any merchandize or articles of commerce, the exportation whereof may not be generally prohibited in those dominions, and neither the aforesaid ships of the Argentine Confederation, nor the said merchandize and other goods so exported shall be subject to the payment in those dominions, of other or higher dues than would be paid by Portuguese ships exporting the like merchandize or articles of commerce,

or than would be paid for such goods if exported in Portuguese ships, and they shall be entitled to the same returns of duties, or bounties, as may be granted to the latter.

IX. In return for the concession made by Her Most Faithful Majesty's Government in the preceding Article, and as it is likewise the desire of the Argentine Confederation, to promote and encourage the extension of the commercial relations between the two countries, it is agreed that the wines and spirits and other products of husbandry of the Kingdom of Portugal and its dominions, shall pay on their importation into the Argentine Confederation the same duties as the like productions pay, which are the produce of Spain; the valuation of those products of Portugal and her dominions for the payment of duties, having to be regulated according to the lowest rate at which those of Spain may be at the same period; and for industrial or manufactured produce the same favour shall be enjoyed as is granted or may hereafter be granted to the other nation.

X. Whenever it may happen that a ship of war, or a merchant vessel, belonging to either of the Contracting Parties, has suffered shipwreck in the ports or on the coasts of their respective territories, the authorities and officers of the Custom-Houses of the district shall give all possible aid and assistance for saving the shipwrecked persons and goods, and shall provide for the safety and preservation of the objects saved, in order that they may be restored to their respective Governments, if the wrecked vessel be a ship of war, or if a merchant ship, to their owner, or his duly authorized agent, and in default of these, to the respective Consuls of the nation to which the owners of the said ships, vessels, or goods belong, so soon as they claim the delivery thereof, and so soon as the expenses and allowances for salvage, preservation or warehousing, have been paid, and these charges must never be more than for the national ships. The merchandize saved from shipwreck shall not be liable to any dues, unless it should be intended for commerce.

XI. Every merchant-vessel belonging to the subjects of either of the two Contracting Parties which may enter, under stress, a port of the States of the other party, shall be exempt therein from all port or navigation dues whatever, if the reasons which have constrained it to enter be real and apparent, and provided that it does not perform any commercial operation, loading or unloading goods, in the port of arrival; nevertheless, it is well understood that the unloading and loading which are necessary for repairing the ship, shall not be considered as commercial operations to give occasion for the payment of dues, and also that the ship is not to prolong its



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Consular Agents of the same
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XIII. The subjects of
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and protection which are e
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shall also be exempt from all
sea, or on land; and no exa
their books, papers, or accou
tent court or judge.

XIV. In case any subje
Queen of Portugal in the te
or any Argentine citizen in
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creditors. The appointmen
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succeed to inheritances in the territories of the other party, or when they take away therefrom their personal property or goods, shall not pay any other dues or imposts than are paid by the natives under the like circumstances.

XVI. As the Portuguese nation and the Argentine Confederation are reciprocally to consider themselves as the most favoured nation in all respects, in their respective territories, the two Contracting Parties likewise mutually engage that neither will concede in future, any favour, privilege, or immunity in commerce or navigation to any other nation, which shall not be immediately extended to the subjects of the other party, gratuitously, if the concession in favour of the other nation has been gratuitous, and with the same compensation, or with the equivalent, if the concession has been conditional.

XVII. In the unfortunate case of one of the Contracting Parties being at war with a third power, the one that remains neutral shall not allow articles contraband of war to be supplied from its territory to the belligerent power. The following are declared to be articles contraband of war: 1, artillery, mortars, howitzers, swivel-guns, blunderbusses, muskets, rifles, carbines, guns, pistols, pikes, swords, sabres, lances, spears, halberds, grenades, rockets, bombs, gunpowder matches, shot, and everything else appertaining to the use of these arms; 2, shields, helmets, cuirasses, coats of mail, belts and uniforms for military use; 3, harness for cavalry, saddles, and anything relating to this arm; 4, and likewise all kinds of arms and instruments of iron, steel, brass, and any other materials, manufactured, prepared, or formed expressly for warfare by sea or land.

XVIII. In the aforesaid case of war, the two Contracting Parties adopt the following principles:

1. That the neutral flag covers the ship and the people, with the exception of officers and soldiers in the actual service of the enemy.

2. That the neutral flag covers the cargo, with the exception of articles contraband of war. Nevertheless, it is understood and agreed that the preceding stipulations declaring that the flag covers the cargo shall only be applicable to those Powers which recognize and adopt that principle; but if one of the Contracting Parties should be at war with a third, while the other remains neutral, the flag of the neutral shall cover the property of those enemies whose Governments recognize and observe that principle, and not that of any others.

3. That the enemy's flag does not save the cargo of the neutral, unless it should have been put on board the enemy's ship before the declaration of war, or even afterwards, if without knowledge thereof. It is also understood that if the flag of the neutral does not protect

DECLARATIONS exchanged between Portugal and France, respecting Differential Duties.—June—September, 1853.

PORTUGUESE DECLARATION.

(Translation.) *Office of Foreign Affairs, June* 30, 1853.

THE Undersigned, Minister and Secretary of State for Foreign Affairs, Marine and Colonies, Plenipotentiary of Her Most Faithful Majesty in the negotiation of a Treaty of Commerce and Navigation between Portugal and France, being desirous of preventing any and every doubt as to the interpretation of some Articles of that Treaty, has the honour to propose to the Marquis de Lisle de Siry, Plenipotentiary of His Majesty the Emperor of the French, an exchange of notes, whereby it may be declared that the differential duty in favour of Portuguese navigation on goods imported by indirect navigation and commerce, remains in force in the form used with the most favoured nations.

This present declaration shall be annexed to the Treaty concluded on the 9th of March of this year,* and shall have the same force and effect as if it had been inserted word for word therein.

The Undersigned, &c.

VISCOUNT D'ATHOGUIA.

FRENCH DECLARATION.

Lisbonne, le 31 *Août,* 1853.

Le Soussigné, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur des Français, Son Plénipotentiaire dans la négociation du Traité conclu le 9 Mars dernier entre la France et le Portugal, a reçu la Note que Son Excellence Mr. le Ministre et Sécretaire d'Etat au Département des Affaires Etrangères, Plénipotentiaire de Sa Majesté Très-Fidèle, lui a fait l'honneur de lui écrire sous la date du 30 Juin de cette année, et il s'est empressé de la communiquer au Gouvernement Impérial dont les instructions sont récemment parvénues à la Légation de Sa Majesté à Lisbonne.

Par sa note précitée du 30 Juin, Son Excellence Mr. le Vicomte d'Athoguia proposait, "pour éviter toute fausse interprétation sur le sens de certaines stipulations du Traité du 9 Mars, d'opérer une échange de Notes par lesquels il serait déclaré, que le droit différentiel en faveur de la navigation Portugaise sur les marchandises importées par la navigation et le commerce indirects, resteroit en vigueur dans la forme usitée pour les nations les plus favorisées."

* Vol. XLIV. Page 1078.

Le Soussigné a reçu l'ordre de présenter à Mr. le Plénipotentiaire de la Reine quelques observations sur le fond et la forme de ce projet de déclaration.

Le Gouvernement de l'Empereur n'élève aucune objection contre le principe même de cette déclaration, mais il la regarde, au fond, comme tout-à-fait inutile. En effet, le principe qu'elle tend à consacrer existe dans la législation Française, et se trouve, de plus, inscrit au Traité en termes assez explicites pour qu'il ne puisse s'élever, dans l'application, aucune difficulté, ni aucun doute, surtout après les explications qui ont été consignées au protocole des conférences tenues par les premiers négociateurs de ce Traité, Mrs. Béclard et d'Almeida Garrett. Cependant, comme Mr. le Plénipotentiaire de la Reine, tout en convenant de la justesse et de la force des arguments que le Soussigné a eu plusieurs fois l'honneur de lui soumettre, se trouve dans l'impossibilité d'abandonner la position que le vote des Chambres du Royaume lui a tracée, le Plenipotentiaire de France accepte, au nom du Gouvernement de l'Empereur, et quelque inutile qu'une nouvelle déclaration lui paraisse, la teneur de celle proposée par le Gouvernement de la Reine, à cette condition toutefois qu'elle sera complétée de manière à consacrer pour le présent et pour l'avenir le principe de parfaite réciprocité que ne contient pas la rédaction de Mr. le Vicomte d'Athoguia, et que le Gouvernement de l'Empereur tient, en tout cas, à bien établir, en invoquant son droit de rendre obligatoires envers lui les engagements qu'il contracte au profit des autres.

Cette prétention est tellement fondée sous tous les rapports, que le soussigné n'a pas à la devellopper: ainse se contentera-t-il, en acceptant les termes du projet dont la tenuer suit: "Le droit différentiel en faveur de la navigation Portugaise sur les marchandises importées par la navigation et le commerce indirects restera en vigueur dans la forme usitée pour les nations les plus favorisées" d'y ajouter cet autre membre de phrase "Et réciproquement, la même réserve existera en faveur de la navigation Française, les deux Hautes Parties Contractantes s'engageant d'ailleurs à toujours établir une complète réciprocité pour les engagements mutuellement acceptés."

Le Soussigné est d'ailleurs prêt à échanger les ratifications de Sa Majesté l'Empereur des Français contre celles de Sa Majesté la Reine, dès que Mr. le Vicomte de Athoguia aura bien voulu prendre acte de la présente note, et déclarer qu'il l'accepte dans sa teneur actuelle.

S.E. le Vicomte d'Athoguia. E. DE LISLE.

SECOND PORTUGUESE DECLARATION.

(Translation.) *Office of Foreign Affairs, September* 2, 1853.

THE Undersigned, Minister and Secretary of State for Foreign Affairs, Marine, and Colonies, Her Most Faithful Majesty's Plenipotentiary in the negotiation of the Treaty of Commerce and Navigation, concluded between Portugal and France, on the 9th of March last, has received the note which the Marquis de Lisle de Siry, as Plenipotentiary on the part of His Majesty the Emperor of the French, addressed to the Undersigned on the 31st of August last, in which note the Marquis, in answer to the note of the Undersigned, dated the 30th of June last, declares that he accepts, in the name of his Government, the terms of the proposed declaration, but with the addition suggested by the Marquis; the said declaration having, therefore, to run in these terms:

"The differential duty in favour of Portuguese navigation, on goods imported by indirect navigation and commerce, remains in force in the form used with the most favoured nations; and, reciprocally, the same reservation shall exist in France in favour of French navigation; the two High Contracting Parties undertaking, moreover, to establish at all times a perfect reciprocity in the mutual engagements which they contract."

The Undersigned having, as in duty bound, immediately brought to the superior knowledge of Her Majesty the Queen the contents of the Marquis de Lisle de Siry's aforesaid note, has received orders from that august Lady to reply to the Marquis, that, as Her Majesty sees no objection to the amplification of the declaration in question in the manner above written, she authorizes the Undersigned to agree to the wording contained in the Marquis's above-mentioned note, and the said declaration shall be likewise annexed to the Treaty, and shall have the same force and effect as if it had been inserted word for word therein.

The difficulties in the way of exchanging the respective ratifications being thus removed, the Undersigned has the honour to inform the Marquis de Lisle de Siry that he will receive him for that purpose at the office of Foreign Affairs at two o'clock in the afternoon to-morrow. The Undersigned, &c.

VISCOUNT D'ATHOGUIA.

AWARD, on the Complaint of Mr. Croft, against the Portuguese Government, referred by Great Britain and Portugal to the Arbitration of the Senate of Hamburgh.—Hamburgh, February 7, 1856.

(Translation.)

THE complaint against the Portuguese Government, which has been preferred by Mr. Croft, and supported by the British Government, is to the effect that the Portuguese Administrative authorities, by denying to Mr. Croft the patent of registration, have infringed those rights which had been adjudged to him by judicial decisions, and thus, in contravention of the constitutional Charter of the Kingdom, have withheld the acknowledgement due to the acts of the judicial power; wherefore the Portuguese Government is liable for damages.

This claim rests, therefore, on the twofold allegation: 1. That the Administrative authorities have acted illegally; and 2. That the Government is responsible for the consequences of the illegal proceedings.

Neither of these allegations can be admitted.

The Administrative authorities, in refusing to grant the patent, acted in conformity with the administrative code which regulates their powers, and with the special laws respecting the registration of donations; for, according to section 254 and section 280 of the said code, they are invested with the function of pronouncing on the admissibility of registrations; and the registration, in the present case, even without referring to the law of the 25th January, 1775, which perhaps may not be applicable herein, was at all events inadmissible, according to the prescriptions of Ordinance l. IV, t. 62, on account of the donor's decease having already taken place. Though differences of opinion might possibly prevail with respect to the latter point, and though, in the case of the Viscount das Picoas, a decision was actually pronounced in a different sense, yet, notwithstanding this, on a closer examination of the case, even those lawyers who had formerly expressed such an opinion (viz., the Attorney-General Ottolini, and his assistant Rangel de Quadros) have retracted it, as may be seen by the unanimous declaration at the Conference of 16th October, 1850, and a single previous judgment, or precedent, which has been wrongly pronounced before, cannot establish a rule for all cases to come, especially where a contradiction of distinct written laws is involved. The Committee is of opinion that the grant of registration was justly refused by the Administrative authorities. It would be of this opinion, even though, in the suit of Mr. Croft against the family of Barcellinhos, the judicial decisions had prescribed that registration to the Admi-

nistrative authorities. For, with the separation existing between the ordinary tribunals and the tribunals of administrative justice, according to the constitution of the Portuguese Monarchy, the former are in no wise competent to prescribe to the latter the way in which they are to decide; on the contrary, the latter have only to proceed according to the legal regulations provided for them. When a court of justice has imposed on a party in a civil suit, the duty of performing a certain act before the Administrative authorities, which, at the time when it is attempted, can, in pursuance of the regulations of the Administrative authorities, no longer be done, —then the act thus imposed has become an impossibility; but no blame can therefore be imputed to the Administrative authorities. The fact is, however, that the legally valid judicial decisions never, in any way, imposed such a duty. The authoritative decision of the Court of Appeal at Oporto, dated March 31, 1843, does not say at all, that the registration of the donation is to take place, either during the life-time, or after the decease of the Baron de Barcellinhos; but it merely says that, were it not to take place, the marriage portion on the Baron's death would appear valid only so far as it did not exceed the legitimate share and the legal tax, and that any surplus would have to be recognised and returned as invalid. This meaning of the Oporto judgment is not only apparent from the wording thereof, and from the opinions of the judges who pronounced it, but it is likewise unequivocally acknowledged by all the later judicial decisions (the Decrees of the Lisbon Court of Appeal, dated March 12, 1844; of the Judge Novaes, dated July 15, 1850; of the Lisbon Court of Appeal, dated October 4, 1851, and the opinions upon which these Decrees were formed), so that the assertion that the Oporto judgment pronounced a compulsory duty of registration, at any time whatever, or even at a specified time, that is, after the death of the Baron, is not founded on fact. But that judgment, as well as all the subsequent judicial decisions, on the contrary, very properly left the question concerning the admissibility and the period of the registration solely to the application to be made to the Administrative authorities, and the judgment there to be pronounced, confining itself to the declaration, that if a registration were proved, the dowry would be legally valid to its whole amount, whereas, in the contrary case, the part exceeding the legitimate share, and the tax of the law, would be regarded as liable to be rescinded.

The first of the two propositions must therefore be negatived; and this is no less the case in regard to the second proposition.

For, even admitting that the Administrative authorities who refused the patent were entirely wrong in doing so, nevertheless it could not be inferred that the Portuguese State was bound to make

good any possible damage thereby occasioned to Mr. Croft. The acting Administrative authorities, the municipal administrator (Administrador do Concelho) in first resort, the District Council (Conselho de Districto) in second resort, and the Council of State, on whose opinion the Royal Decree of the 4th December, 1849, was issued, in third resort, had to give a decision in a litigated case, and in this branch of their functions they act, not in the character of mere executors of the Government's orders, but as actual authorities pronouncing the sentence of the law, such authorities existing according to the Portuguese Constitution, likewise in the province of the Administration. For when a certain class of legal questions, according to the provisions of this, and of many other similar State constitutions, has been taken away from the ordinary courts of justice, and assigned to a special jurisdiction, instituted for such questions occurring in the Administration, the exercise of this jurisdiction not the less involves an actual judicial activity, since its practice depends solely on the free and independent righteous conviction of the individuals legally entrusted with it, and not on obedience to superior orders; and from this it follows at once that it is impossible that the higher authorities of the Government, or of the State, should be responsible for sentences pronounced by that jurisdiction. There can be no question here of the exceptional cases which, in the opinion of Vattel (II, 7, § 84), may justify the reclamation of a foreign Government even against judicial sentences affecting one of its subjects, since none of the suppositions enumerated by Vattel agrees with the perfectly just decisions given in the present case. Therefore the second allegation on which the English Government would base the claims of Mr. Croft must also be declared unfounded.

It is true that the Portuguese Government itself, after having for a long time steadfastly maintained the justice of the proceedings of the administrative tribunals in refusing the patent, notwithstanding, towards the end of the year 1851, in order to meet the wishes of the English Government, and, in consequence of its urgent representations, tried to bring about a contrary arrangement; Her Majesty's Ministers instituting a motion for redress by means of a statement addressed on the 17th November, 1851, according to Article XCIV of the Regulations of the Council of State, to the President of the Department of Legal Questions, in order that the Council of State might reconsider the matter and cancel its former resolution, which confirmed the decision of the District Council, upon which the Decree of 4th December, 1849, was passed; and in this statement the Ministers made use of al those arguments which the English Government had up to that time brought to bear against the proceedings of the Administrative authorities, and which the

Committee, as has been explained above, cannot consider as well grounded. But when, after this, the Council of State, in united sections, delivered its opinion on this motion of the Government on grounds which appear to the Committee correct on all points, to the effect that the motion appeared neither formally nor materially admissible, then the Government went even further, and on the 3rd of January, 1852, issued a Decree which, in the form observed in deciding on motions in litigated cases, expressly setting aside, however, the contrary opinion of the Council of State, annulled the Decree of the 4th of December, 1849, and now decided on the appeal from the sentence of the District Council of the 10th May, 1849, that the patent was to be granted, which, then, was granted accordingly.

From these proceedings of the Portuguese Government, in November, 1851, and January, 1852, the English Government would infer that the Portuguese Government itself acknowledged the illegality of the former administrative decisions, and admitted the obligation to hold Mr. Croft harmless, and to put him in the situation in which he would have found himself, if, on the 18th of November, 1848, when the Municipal Administrator gave his judgment against it, that functionary had granted him the patent.

If what was contained in the statement of the 17th November, 1851, had been expressed in a note or other diplomatic communication, addressed to the British Government by the Portuguese Government as its view of the case, it might then have been justly said that the one Government had thereby of itself made an acknowledgment and an admission to the other by which the latter was now altogether exonerated from the task of proving that the case really stood as it was represented there. But no such character can be ascribed to the expressions of that statement, which, from its nature, was merely an address to the Council of State, to move it, if possible, to alter its former decision as the Portuguese Government wished, on account of the friendly relations with England. Whatever was said in such an address for the sake of supporting the request preferred, the party on whose behalf and in whose favour it was made, cannot thence deduce acknowledgments for itself. If, therefore, it is said in the statement that the decisions of the administrative authorities contained a "déni de justice," because they did not respect the legally valid judicial sentences, and involved "presque une distinction odieuse," to the prejudice of an Englishman; because, in the year 1838, in the case of the Viscount de Picoas, a different decision had been given; these are, in truth, but arguments made use of in order to procure a decision of the Council of State in accordance with the desires of Mr. Croft, but in no wise admissions made to him or to the English Government *animo con-*

fitendi, or which might be made available as such. It is the same with all the rest of the representations in that statement, the purpose of which was evidently to bring before the Council of State, as completely as possible and with urgent support, the arguments which the British Government had hitherto brought to bear in the matter which it defended. The Council of State, however, in its resolution of the 10th of December, 1851, justly, as it appears to the Committee, rejected these arguments as unfounded.

Nor does the Decree of the 3rd January, 1852, which the Portuguese Government next resolved to issue, afford grounds, any more than the statement of 17th November, 1851, for deducing an acknowledgment on its part of an obligation to pay an indemnity; for, in the first place, neither is this decree an international communication between the two Governments, but it is a judgment pronounced in a litigated matter; and, in the second place, even if any admission were to be deduced from that decree, it could only be this, that the Administrative authorities had acted illegally before, and not this, that the Portuguese State was obliged to make good the damages arising from that action; which is something altogether different, and, according to what is said above, not at all self-evident, though that would be essentially requisite, in order to be able to assert that the Portuguese Government had recognized the claim now made upon it.

Neither can any acceptance of a fresh liability on the part of the Portuguese Government towards the British Government be found in the Decree of the 3rd of January, 1852, for this could only be the case if either it contained a promise or it had occasioned a damage to Mr. Croft.

If at any time the Portuguese Government, or its legal representative, had given to the British Government, in the usual forms of international intercourse, a promise that Mr. Croft should be assisted in obtaining the satisfaction of his claims, or that he was to be held harmless in regard thereto, then there could be no doubt that a perfectly valid title to satisfaction or indemnification from the Portuguese State would arise therefrom, since those are the constitutional forms recognized by the law of nations, in which the international obligations of one country towards another are contracted. But the same cannot be asserted of a case where nothing else is apparent but an order which the Government issued to its own authorities in favour of a foreign subject, without any promise having been previously made to that subject's Government. If in such a case, the order meets with constitutional obstacles, which render its execution impossible, no claim founded on international law can be made upon the Government for damages on account of that its order not having been carried into execution. It is, there-

fore, conceivable, that the order given in the Decree of the 3rd of January, 1852, namely, the issue of the patent therein directed might not have been executed at all, in consequence of some legal obstacle, independent of the Government's will; and yet that no claim on the Portuguese State for indemnification could have been founded thereon by the British Government or its subject. This, however, has not happened, but the order of the 3rd of January, 1852, has been executed, and the patent has been granted to Mr. Croft. He has thus actually obtained what he desired, and the object of his desire has always been only to present the patent before the courts of justice, and thereon to get from them a judgment against the family of Barcellinhos. He must now proceed in that way, and wait for the result of the judicial decisions, wherein, however they may turn out, he is to recognize his only legal remedy. Least of all will he be able to assert that any damage whatever has accrued to him from the Decree of the 3rd of January, 1852. On the contrary, the most recent judicial decision lying before the Committee in Mr. Croft's suit against the family of Barcellinhos, namely, the judgment of the Supreme Tribunal of Justice of the 14th of August 1854, opens to him the prospect that, in consequence of the patent having now been granted in obedience to the Decree of the 3rd of January, 1852, he might expect a favourable issue of his suit. However, be this as it may, and whatever be the purport of the final sentence to be pronounced in the cause against the family of Barcellinhos (since the above-mentioned judgment of the Supreme Tribunal of Justice has not as yet the force of a definitive decision); at all events, it is not to the Decree of the 3rd of January, 1852, that Mr. Croft will have to ascribe any unfavourable issue of his law-suit. If any one could prove damage from that decree, it could only be the family of Barcellinhos, in case, namely, of their being adjudged according to the aforesaid decision of the Supreme Tribunal of Justice, to pay on account of the patent now produced the whole of the marriage portion. For in so far as the issue of that decree may involve any infringement of law and established rights, the Barcellinhos family would then be able to set up a claim for redress conformably with the Portuguese laws, and so far as they allow of it, whether against the Portuguese State Treasury or against the originators of the decree. But the Committee can by no means, on account of a contravention of law, possibly committed by the Portuguese Government, to the prejudice of the Barcellinhos family, adjudge to Mr. Croft, in whose favour that very contravention would have taken place, a claim of damages against the said Government.

On these grounds, the Committee give the required award as follows: That the Portuguese Government is to be discharged

from the claims made on the part of the English Government in favour of Mr. or Mrs. Croft, as also from the claims which Mr. and Mrs. Croft have set up against the Portuguese Government; the costs which each of the two parties has incurred on account of this arbitration are to be borne by themselves; of the costs incurred by the Committee, one moiety is to be paid by each party.

(L.S.) ASHER, Dr.

CONCORDAT between Rome and Portugal, for continuing the exercise of the Portuguese Rights of Church Patronage in the East.—Lisbon, February 21, 1857.

(Translation.)

His Holiness the Supreme Pontiff Pius IX, and His Most Faithful Majesty King Don Pedro V, having resolved to enter into a Treaty for the establishment of Articles of Agreement for the continuance of the exercise of the rights of church patronage by the Crown of Portugal in India and China on the terms arranged in those Articles, have appointed for this purpose two Plenipotentiaries, that is to say:

On the part of His Holiness, the Most Eminent and Right Reverend the Cardinal Camillo di Pietro, Apostolic Pro-Nuncio in Portugal;

And on the part of His Most Faithful Majesty, the Most Excellent Rodrigo da Fonseca Magalhães, Peer of the Realm, Actual Councillor of State, Honorary Minister and Secretary of State, and Grand Cross of the Order of our Lord Jesus Christ;

Who, after exchanging their respective full powers, and finding them in good and due form, have agreed upon the following Articles:

Art. I. In virtue of the respective apostolic bulls, and in conformity with the sacred canons, the exercise of the right of patronage by the Portuguese Crown shall continue, as regards India and China, in the cathedrals mentioned hereunder.

II. As regards India:

In the metropolitan and primatial church of Goa, in the archiepiscopal church *ad honorem* of Cranganor, in the episcopal church of Cochim, in the episcopal church of St. Thomas of Meliapor, and in the episcopal church of Malacca.

III. As regards China:

In the episcopal church of Macao.

IV. It is agreed, that the province of Quam-Si shall not for the future be included in the episcopal jurisdiction of Macao, and consequently not in the patronage; His Holiness reserving to himself to take freely in that province such measures as he shall consider expedient and necessary for the advantage of the faithful.

V. The Holy Father reserves to himself to do the same in regard to the island of Hong-Kong, which, although included in the province of Quang-tung (Canton), shall remain separate from the episcopal jurisdiction of Macao, and out of the patronage.

VI. The jurisdiction of the bishopric of Macao, and the patronage of China, will thus henceforth comprise the territory belonging thereto, according to the respective bulls, that is, Macao, province of Quang-tung (Canton) and the adjacent islands; excepting only the aforesaid province of Quam-Si, and the island of Hong-Kong.

VII. On account of the considerations of religious expediency represented on the part of the Holy See, in regard to the erection of a new bishopric in some part of the present territory of the archbishopric of Goa, the Portuguese Government, as the patron, will contribute, so far as may depend upon it, towards the due accomplishment of that object on the terms and in the locality, which, in concert with the Holy See, shall be considered most suitable for the good administration of that church, and for the convenience of the faithful.

VIII. The island of Pulo-Penang shall be separated from the bishopric of Malacca, and from the patronage, and His Holiness will take such steps as may appear fitting to him in regard thereto.

IX. But the island of Singapura shall continue to belong to the said bishopric of Malacca, and the episcopal residence may be established therein, the prelate still retaining the title of Bishop of Malacca.

X. As the territory of each of the above-mentioned suffragan bishoprics of India should be of such extent that the prompt and beneficial exercise of the episcopal jurisdiction may not be difficult, he High Contracting Parties agree to proceed, in concert, to the lemarkation of those bishoprics, as shall seem most conducive to hat end.

XI. The Holy Father, bearing in mind the duties dictated by is apostolic ministry, and desiring that an end may be put as soon s possible to the misunderstandings and disturbances which have fflicted and still afflict the churches of the East Indies, to the rious injury of the religious interests and of the public peace of ie faithful belonging to those churches, a state of things which is Holiness could not see the continuance of without hastening to pply an adequate remedy; and His Most Faithful Majesty Don edro V, animated by the same desire of seeing those churches osper, and tranquillity restored in their respective communities; ve agreed to proceed without delay to the preparation of an ditional act or regulation, in which the limits of the said hoprics of the patronage are to be fixed in accordance with the ceding Article.

XII. The limits which shall be fixed by common consent must be mentioned in the bulls of the bishops who are presented.

XIII. For this purpose two Commissioners, one for each of the High Contracting Parties, shall be appointed who, guided by a spirit of conciliation, and well acquainted with the localities, shall propose the respective boundaries of each diocese.

Declaration shall be made to these Commissioners of the territories in which the High Contracting Parties have agreed that the exercise of the patronage of the Crown of Portugal is to continue.

XIV. In those parts of the territory remaining without the limits assigned to the above-mentioned dioceses in India, new bishoprics may be established, with the necessary formalities, the patronage whereof shall be exercised by the Crown of Portugal from that time.

XV. In consideration of what has been agreed to on the subject in Article VII of the present Treaty, His Holiness consents to grant canonical institution to the person who shall be nominated and presented by His Most Faithful Majesty to the metropolitan church of Goa. And the High Contracting Parties agree that so soon as the new archbishop takes possession, the Commissioners appointed shall proceed to employ themselves in the definitive demarkation of the diocese which is to be established in the territory of that archbishopric, in conformity with and for the purposes of the said Article VII.

The High Contracting Parties further agree that for the exercise of the ordinary jurisdiction by the new archbishop, the provisional limits of his territory are declared to be the churches and missions which shall be actually in obedience to the archiepiscopal see at the time of signing this Treaty; all the others which at the same date shall be actually subject to the authority of the Apostolic Vicars, having to remain in peaceful obedience to their authority. This state of things shall continue until the definitive canonical constitution of the bishopric which is to be established.

And according as the decision and approval of the demarkation of the suffragan dioceses of India proceed, and the canonical provision of the respective bishops is accomplished, the Holy See will successively sanction the exercise of the metropolitan jurisdiction over those dioceses by the said archbishop.

XVI. So soon as the demarkation of any of the suffragan bishoprics of India shall be settled, and the necessary means for the episcopal see be provided, the Supreme Pontiff will admit the presentation of the bishop made by the Royal Portuguese patron; and as the respective bulls of confirmation are issued the apostolic vicar or vicars who may be in the territory of the bishoprics must

successively remove therefrom, in order that the appointed prelate may enter upon the government of the diocese.

XVII. The present Treaty, with its two annexes A and B, which form an integral part of it, shall be ratified by the High Contracting Parties, and the ratifications shall be exchanged at Lisbon, within 4 months from the date of signature,* or before, if possible.

In witness whereof, the above-mentioned Plenipotentiaries have signed the said Treaty on duplicate originals, Portuguese and Italian, and have affixed to it the seal of their arms.

Done at Lisbon, 21st February, 1857.

(L.S.) CAMILLO CARD. DI PIETRO, P.N.A.
(L.S.) RODRIGO DA FONSECA MAGALHAES.

ANNEX A.

Lisbon, February 21, 1857.

In Article VI of the Treaty subscribed this day by the Undersigned, it is declared that the jurisdiction of the Bishop of Macao is to include the province of Canton (Quang-tung), and the adjacent islands, amongst which the principal, in regard to Christian communities, is the island of Hainan; having regard, however, to what has been agreed to at the Conferences and for the reasons taken into consideration by both the negotiators, it is thought fitting to delay, for a fixed period, the exclusive exercise of the ordinary jurisdiction of the Bishop of Macao in the territories of the said province and island. This space of time was limited to one year, without extension, and it is to commence from the day on which the Treaty shall be ratified by the two High Contracting Parties; when the year is passed the said Article VI will come into full operation; a promise having been given, on the part of the Undersigned Portuguese negotiators that the Royal Patron will endeavour to increase the number of able and suitable missionaries, to be employed in addition to the present ones, in the preservation and propagation of the Catholic faith in those regions.

And in order that this special agreement may have the same force as the Treaty, and be considered an integral part thereof, not only is it signed by the two negotiators, but it shall also be ratified, together with the Treaty itself, by both the High Contracting parties.

(L.S.) CAMILLO CARD. DI PIETRO, P.N.A.
(L.S.) RODRIGO DA FONSECA MAGALHAES.

* The exchange did not take place within the stitulated period, because the concordat underwent certain modifications in the Chamber of Deputies.

ANNEX B.

Lisbon, February 21, 1857.

As it is said in Article XIII of the Treaty signed this day, relative to the patronage of the Portuguese Crown in the East, that the Commissioners charged to propose the respective demarkations of the dioceses of India, mentioned in the said Treaty, shall be informed of the territories in which the High Contracting Parties agree that the exercise of the aforesaid Royal Portuguese patronage is to continue; the Undersigned, Pontifical and Portuguese Plenipotentiaries, declare for the complete understanding of that Article, that the said High Contracting Parties have agreed that the territory of the Patronage of the Crown of Portugal in India is the territory of British India; the meaning of these words being the lands immediately or mediately subject to the British Government; and that, therefore, the Commisssioners appointed for the demarkation of the dioceses must keep in view, on the one hand, that the localities belong to British India in the sense aforesaid; as also the establishment of Portuguese missions, and the foundation of religious and charitable institutions by the pains and liberality of the Portuguese Government, or of its ecclesiastical or lay subjects, although some of these institutions may not be actually under the administration of Portuguese priests; and, on the other hand, the most convenient and prompt assistance of the pastor to his flock, according to the extent and distance of the missions, the number of Christian communities, and other circumstances that ought to be considered in order to attain the same end.

The Undersigned, moreover, declare that the High Contracting Parties agree that this document has the same force as the Treaty, and as such is binding on both the said High Contracting Parties, whom the Undersigned have the honour to represent.

The High Contracting Parties aforesaid will ratify this, together with the Treaty.

(L.S.) CAMILLO CARD. DI PIETRO, P.N.A.
(L.S.) RODRIGO DA FONSECA MAGALHAES.

CORRESPONDENCE respecting the Non-Guarantee, by the Powers which signed the Vienna Congress Treaty of June 9, 1815, of the King of Naples as King of the Kingdom of the Two Sicilies.—1848.*

No. 51.—The Earl of Minto to Visct. Palmerston.—(*Rec. Feb.* 13.)

MY LORD, *Rome, February* 2, 1848.

I HAVE received an application from the General Committee of Palermo, soliciting my intervention as affording them the protection of a guarantee in negotiation with their Sovereign.

As this document agrees verbatim with a similar application made to Lord Napier, I have not thought it necessary to transmit a copy to your Lordship.

I shall inform the Committee of my readiness to do them any good office in my power towards a reconciliation with their Government, but that I cannot officially interpose nor make Her Majesty's Government a party to any engagements that may be agreed to.

Should your Lordship have any instructions to give on this subject I would suggest that they may be addressed to Lord Napier, as it is not likely that they would find me still at Naples.

I have, &c.

Viscount Palmerston, G.C.B. MINTO.

No. 52.—Lord Napier to Viscount Palmerston.—(*Rec Feb.* 13.)

MY LORD, *Naples, February* 3, 1848.

I HAVE the honour to inclose to your Lordship herewith copy of a note addressed to Her Majesty's Legation by the Duke of Serra Capriola, requesting the mediation of the Representatives of Great Britain and France, with the view of arresting the civil war in Sicily.

I have the honour to submit to your Lordship the accompanying reply to the same, stating that the mediation of Her Majesty's Legation would be conditional on an assurance that before proceeding to any compulsory incorporation or legislative union between Naples and Sicily, the sentiments of the Sicilians should be consulted in a separate National Assembly convoked for that purpose.

I avoided mentioning the Parliament of 1812 by name, having been informed that any allusion to that Constitution is distasteful to His Sicilian Majesty, whose gracious desire it is to appear in the benignant character of a spontaneous and original benefactor of his people.

* Laid before Parliament with Correspondence respecting the Affairs of Naples and Sicily, 1849.

I have not yet had an official answer to my note, but I was last night informed by the best authority, that His Sicilian Majesty has resolved to grant to Sicily a separate Representative Constitution comprising two Chambers, the details of which it will be my duty to lay before your Lordship on a subsequent occasion.

I have, &c.

Viscount Palmerston, G.C.B. NAPIER.

(*Inclosure* 1.)—*The Duke of Serra Capriola to Lord Napier.*

(Translation.) *Naples, February* 1, 1848.

THE King of the Two Sicilies inspired by a constant and ardent desire for the prosperity of his States and the well-being of his subjects, has determined to give a most certain and convincing proof thereof by complying with the wishes expressed by them, and adopting the constitutional system of Government, according to the Royal Decree of the 29th ultimo.

Whilst His Majesty beholds with delight the most perfect tranquillity predominating in that part of his royal dominions on this side the Faro, he perceives with sadness of heart that the other portion beyond the Faro is immersed in civil discords.

The King under these unhappy circumstances, which cannot fail to afflict him profoundly, desiring ardently for the sake of humanity to avoid by every means in his power the effusion of blood, has ordered the Undersigned, &c., to apply to Lord Napier, &c., and to the Count de Montessuy, &c., and to beg them in their quality of Representatives of two great friendly Powers to act as mediators, so that all hostilities may cease in that part of the Kingdom and, all further bloodshed being avoided, a calm investigation may be set on foot of the yet existing obstacles to the complete restoration of order, tranquillity and public security.

The Undersigned in making this communication to Lord Napier, trusts that he for his part will agree to the King's proposal, and avails, &c.

Lord Napier. DUKE OF SERRA CAPRIOLA.

(*Inclosure* 2.)—*Lord Napier to the Duke of Serra Capriola.*

Naples, February 1, 1848.

THE Undersigned, Her Britannic Majesty's Chargé d'Affaires, has the honour to acknowledge the receipt of a note from his Excellency the Duke of Serra Capriola, Minister Secretary of State for Foreign Affairs and President of the Council of Ministers, by which the Undersigned is informed that His Majesty the King of the Two Sicilies has expressed his desire to accept the services of the Undersigned and of the Chargé d'Affaires of His Majesty the King of the French, in the character of mediators, to arrest the

effusion of blood in the island of Sicily and effect the restoration of tranquillity in that distracted country.

The Undersigned is deeply sensible of the importance and benevolence of His Sicilian Majesty's gracious proposal, and he hastens to present to the Duke of Serra Capriola the expression of his earnest wish to contribute as far as is consistent with his powers to such a humane and salutary object.

The Government of Naples is well aware of the ancient bonds of intimacy and alliance which have long united its interests and policy with those of Great Britain, and that in Sicily especially that alliance assumed during an eventful period under the reign of His Majesty King Ferdinand III in one Kingdom, but legitimate Sovereign of both, such a frame of amity, confidence, and mutual aid, as has rarely subsisted between independent nations.

The dignity of the Sicilian Crown and the welfare of the Sicilian people must in consequence of such glorious traditions of a common past ever remain peculiarly dear to the Government of Great Britain; and the Undersigned would be a very imperfect exponent of the feelings of his Government and his country, if he did not confess his ambition to employ all his efforts in confirming the just authority of His Sicilian Majesty and in furthering the contentment and prosperity of his subjects.

The Undersigned must, however, call the attention of his Excellency the Duke of Serra Capriola to the consideration that the influence which he might possibly exert in establishing peace between the Government of His Sicilian Majesty and a powerful party now unfortunately in arms against the Royal authority, would in a great measure depend upon certain sympathies and recollections having reference to an epoch in which the Sicilian people and that of Great Britain delighted to recognize in the similarity of their respective political institutions additional motives of affection and brotherhood. The Undersigned, in consenting to employ his mediation as an English Representative, would indeed, if he lost sight of the spirit and claims of Sicilian nationality, render himself incapable of all usefulness, and would probably provoke the suspicion and aversion of one of the parties in whom it must be his object to inspire sentiments of moderation and confidence.

That party has raised the standard of revolt in a cause which they are not likely to abandon without some guarantee that in the future organization of their country the wishes and aspirations of Sicilians will obtain a separate impartial consideration, and those wishes can only in their opinion be legitimately expressed in some national assembly of which the previous history of their country offers abundant examples.

The Undersigned consequently feels that he would be embarking

the name and influence of the British Government in a hopeless enterprise, should he offer his mediation to the insurgent party of Sicily without being empowered at the same time to assure them on the part of the Neapolitan Government, that no attempt will be made to enforce between the two countries composing the dominions of His Sicilian Majesty, any scheme of legislative incorporation or representative union, without the convocation and consent of a preliminary separate national assembly, in which the Sicilian people shall be represented by their native lords and deputies sitting therein by ancient right and free election, an assembly which would be enabled to bring to the foot of the Throne in a legitimate manner the sense of the whole nation.

To this fundamental security the Undersigned believes that his Excellency the Duke of Serra Capriola will see the expediency of adding for the safety of so many persons compromised by the late events, and in the interest of public tranquillity, the gracious assurance on the part of His Majesty the King, of an amnesty of the amplest character, and the appointment of a national guard; measures which have already been embraced by the wisdom of His Sicilian Majesty in the peninsular portion of the Kingdom.

With such conditions as the basis of a practical and useful mediation, the Undersigned would willingly proceed, should such a step be deemed desirable, to the principal seat of hostilities, in company with a Commissioner appointed by His Sicilian Majesty, to meet a delegate on the part of the Provisional Government, and to assist by his good offices and guarantee in negotiating an armistice which would have the effect of arresting the further effusion of blood in a deplorable and unnatural struggle.

His Royal Highness the Count of Aquila, His Sicilian Majesty's Lord Lieutenant in Sicily, should such prove the gracious will of the King, would then be enabled by his conciliating presence to heal the wounds inflicted during the late unhappy disorders and provide for the convocation of the prescribed Assembly as mentioned above, which would be charged with the duty of offering to His Sicilian Majesty the matured expression of the national sentiments with respect to any posterior organic change of government.

The Undersigned, &c.

The Duke of Serra Capriola. NAPIER.

No. 54.—Viscount Palmerston to the Earl of Minto.

My Lord, *Foreign Office, February* 16, 1848.

With reference to your Lordship's despatch of the 2nd instant, I have to inform you that Her Majesty's Government entirely approve your having determined to go to Naples, and of the intention and views with which you are about to go there, and Her

Majesty's Government would feel very great pleasure if your Lordship should be able by the employment of your good offices between the King of Naples and his Sicilian subjects, to bring about a satisfactory arrangement between them.

The settlement which would be most consonant with the wishes of Her Majesty's Government, because it would be most conducive to the strength and union of the Neapolitan Monarchy, would be that there should be one Parliament for the whole Kingdom, and that Sicily and the Neapolitan provinces should be represented in their due and proper proportions in the two Houses of which that Parliament would consist; but if there should arise any insurmountable obstacles to such an arrangement, then two Parliaments, the one for Naples and the other for Sicily, would become unavoidable.

The difficulties which Her Majesty's Government anticipate as likely to arise as obstacles to one Parliament, are, first, that it may be that there are better elements for an hereditary House of Peers in Sicily than in Naples, inasmuch as it is understood that the law of inheritance in Sicily is more favourable to the keeping together hereditary fortunes, by means of which an hereditary aristocracy can be maintained in their suitable position; whereas, in Naples, the French law of inheritance prevails, and that law is not so favourable to the principle of an hereditary aristocracy; and thus, while on the one hand the Sicilians may desire to have an hereditary House of Peers, the Neapolitan Government on the other hand may stand out for peerages for life; but means might probably be found to get over this difficulty, and indeed it might perhaps not be impossible to settle that the Sicilian Peers should be hereditary and the Neapolitan for life. Examples would not be wanting in support of such diversity of tenure in one and the same legislative body: for in the British House of Peers, for instance, there are found sitting together, first, Peers who hold their seats by hereditary right; secondly, Bishops and Irish Peers, who sit for their lives, the former named by the Crown, the latter elected by their Irish fellow Peers; and thirdly, Scotch Peers, who hold their seats only during the Parliament, being elected by the body of Scotch Peers after each dissolution.

The second difficulty may arise from the not unnatural distrust which the Sicilians may feel towards the King and the Government of Naples; for they may possibly think that if they had a Parliament of their own sitting in Sicily, it would not be easy for the King of Naples to put that Parliament down and to abolish it; whereas if their members formed only part of a Parliament sitting at Naples, and which from its local position would be more in the power of the King, if that Parliament were to be crushed by an act

of power on the part of the King of Naples, they would be left without any legally organized representation, and they would then have to enter into a new course of resistance to the Crown in order to establish a Parliament in Sicily.

One remedy for this danger might indeed be suggested by the Sicilians, and that would consist in a guarantee to be given them by the British Government singly, or by Great Britain conjointly with some other foreign Power, against any such act of violence and bad faith on the part of their own Sovereign; but to such a guarantee Her Majesty's Government could not be a party. The responsibilities which such an arrangement would involve, would be too embarrassing and too much at variance with sound policy to admit of Her Majesty's Government consenting to authorize your Lordship to enter into any such engagements on behalf of the British Crown. But your Lordship might possibly induce the Sicilians to take the chance of future events in a matter of this sort, relying upon that strength which they have recently displayed, and reflecting that when once a constitutional form of Government shall have been established for the whole of the Neapolitan dominions, it will become next to impossible for this King or for any of his successors to take away institutions so granted. I am, &c.

The Earl of Minto. PALMERSTON.

No. 57.—Viscount Palmerston to Lord Napier.

(Extract.) *Foreign Office, February* 16, 1848.

WITH reference to your Lordship's despatch of the 3rd instant, inclosing the reply which you had returned to the note addressed to you by the Duke of Serra Capriola, requesting the mediation of Great Britain and France in arresting the civil war in Sicily, I have to inform your Lordship that your answer was right, in as far as it expressed the readiness with which you, as the organ of the British Government, were prepared to take any proper step by which you might be useful in healing the differences now unfortunately subsisting between the King of Naples and his Sicilian subjects; but it is not the desire of the British Government that the Kingdom of Naples should be weakened by a separation between its insular and continental portions; no interest of England would be served thereby; and, on the contrary, such a separation might lead to events which could not fail to be productive of embarrassment to England. It is therefore the wish of Her Majesty's Government that the connection between Sicily and Naples should be maintained, and the closer and more intimate that connection could be made, the better pleased would Her Majesty's Government be, provided always, that nothing was done which should be at variance with the inclinations of the Neapolitan and Sicilian people.

The best arrangement therefore which could be made, supposing it to be in all respects practicable, would be that there should be one Parliament for the whole Kingdom, and that in that Parliament the Peers and the Representatives of Sicily and of the Neapolitan provinces should sit together in such relative proportions as might upon consideration be determined to be just and proper.

Her Majesty's Government do not know enough of the present state of things in Sicily and at Naples to be able to judge whether such an arrangement could or could not be effected; and they are aware that many obstacles on both sides of the channel might be opposed to it; but, nevertheless, Her Majesty's Government think that the advantages of such an arrangement would be so great, that every effort ought to be made to accomplish it.

Lord Napier. PALMERSTON.

No. 60.—*Lord Napier to Viscount Palmerston.*—(*Rec. February* 17.)

(Extract.) *Naples, February* 3, 1848.

Having received an intimation that His Sicilian Majesty desired to see me, I waited upon His Majesty at the Palace this afternoon.

The King received me in a very gracious manner, and informed me that he had heard from his Excellency M. Bozzelli of my willingness to employ the influence of Her Majesty's Legation in promoting the restoration of tranquillity in Sicily.

I replied to His Majesty that in consequence of the information conveyed to me by M. Bozzelli that a separate Representative Government would be bestowed on that part of His Majesty's dominions, I hoped that I might have the power of exerting some influence with the insurrectionary party, and if I had previously manifested an apparent difficulty or reluctance in not unconditionally affording my assistance for such a salutary object, it was solely owing to my persuasion that I had no sound basis of action; but now, on the contrary, the principal object at issue being conceded, namely, a separate legislature, I was enabled to operate with a great security of success, and that from that moment all my efforts were at His Majesty's disposal.

His Majesty having expressed a desire that I should proceed in person to Palermo, I stated my readiness to do so directly, and the King added that in such a conjuncture of affairs the presence of the Earl of Minto at this capital would be very desirable, and that it would cause an invitation to be transmitted to his Lordship without delay through the Neapolitan Minister at Rome. I then submitted to the King that I had already urgently pressed the Earl of Minto to repair without delay to Naples, and that the messenger in case he should meet him on the road had better be charged with

some communication to be delivered to him in person. His Majesty agreed, and requested me to convey in a letter to the Earl of Minto the expression of his wishes, which would be consigned to the care of the Neapolitan courier to be used in the contingency mentioned above.

I then took leave of His Majesty the King and retired to the Council Room with the Duke of Serra Capriola and M. Bozzelli, who were present during the audience. I found several of the Ministers assembled, and a discussion ensued.

I pointed out to the Council that with the future organization of the Government I had little to do, that my duty was to assist in framing an armistice, and that for that purpose I must have Commissioners or Plenipotentiaries empowered to act in connection with me and to meet the delegates in like number of the Provisional Government. I recommended two on each side if one were not thought enough, for amongst such an excitable people I dreaded the fruitless conflict of debate between large parties of negotiators. It was agreed; and I suggested as one of the Commissioners Prince Cariati, with whom I have the honour to enjoy a private friendship, and whose former experience of military affairs would enable him to indicate the course and the expedients fitting to such an emergency. This suggestion seemed to meet with general approval, and Prince Cariati has been requested to join the Commission.

We proceeded to discuss the terms on which it would be convenient and becoming for the Representatives of the King to accept an armistice; but here I discovered that the Council desired me to commit myself to articles, which, considering the problematical nature of the duty undertaken, were quite misplaced and impracticable. In vain I protested the necessity of allowing me to act for the best according to circumstances, assuring them that the honour of the Crown would be respected in my hands; they seemed bent on dictating instructions to me and binding up my powers of judgment and action to such a degree that I was forced to say I saw only one practicable issue, viz., that:

1st. Two Plenipotentiaries should be appointed on either side for the discussion of the terms of an armistice, and that I should be present merely as a kind of amicable arbiter to facilitate their conference and conclusions without any positive powers; and

2nd. That on the armistice being completed, I should give the guarantee of Her Majesty's Government for its execution by either party.

My propositions appeared to be received with satisfaction, and we separated.

I am under the impression that the course to be pursued will in reality be regulated by the state of affairs at Palermo when we

arrive at that city, of which we are very ignorant, and that it may be expedient to proceed at first in any manner with the view of availing ourselves of such opportunities of usefulness as may fortuitously occur, having once got a good basis in the offer of a separate Constitution to Sicily, which was the great aim of the nation.

Viscount Palmerston, G.C.B. NAPIER.

No. 62.—Lord Napier to Viscount Palmerston.—(Rec. February 17.)

(Extract.) *Naples, February 4, 1848.*

It may be expedient for me to state to your Lordship that in offering the guarantee of Her Majesty's Government to the Articles of the proposed armistice, I took good care to mark most explicitly that such a guarantee would apply solely to the conditions of a suspension of hostilities, and have no reference whatever to the subsequent settlement of the general political question with regard to the system of Representative Government to be enjoyed by Sicily, with respect to which I could not of course assume the responsibility of offering any guarantee whatever; and I have spoken to the members of the Sicilian party here in the same sense.

Viscount Palmerston, G.C.B. NAPIER.

No. 69.—Lord Napier to Viscount Palmerston.—(Rec. February 21.)

My Lord, *Naples, February 10, 1848.*

I have the honour to transmit to your Lordship herewith copy of a communication which I have received in answer to my note to the Duke of Serra Capriola of the 1st instant, in which I consented to employ the mediation of Her Majesty's Legation in Sicily under certain conditions.

Your Lordship will observe that the Neapolitan Government have not thought fit to accept the good offices of Her Majesty's Legation, pleading Article CIV of the Treaty of Vienna,* on which they seem inclined to place a false interpretation, as if it not only established the union of the Crowns of Naples and Sicily, but an absolute conformity of institutions between the two countries.

The Duke of Serra Capriola having also passed over in silence the transactions which passed between His Sicilian Majesty and the Neapolitan Council and myself, as reported to your Lordship in my despatch of the 3rd instant, I thought the opportunity a favourable one for placing those circumstances on record in the accompanying letter, not that I complain of the change of resolution embraced by

* CIV. Sa Majesté le Roi Ferdinand IV est rétabli, tant pour lui que pour ses héritiers et successeurs, sur le Trône de Naples, et reconnu par les Puissances comme Roi du Royaume des 2 Siciles. Vol. II. Page 51.

the Neapolitan Cabinet, but that I think some explanation ought to have been offered to Her Majesty's Legation after what had passed.

I have, &c.

Viscount Palmerston, G.C.B. NAPIER.

(*Inclosure* 1.)—*The Duke of Serra Capriola to Lord Napier.*

(Translation.) *Naples, February* 5, 1848.

THE Undersigned, &c., has received the note of February 1st, addressed to him by Lord Napier, &c., in reply to his own of the same date, in which he besought his mediation, conjointly with that of the French Chargé d'Affaires, as Representatives of two great friendly Powers, for the purpose of putting a stop for the sake of humanity to the effusion of blood in Sicily.

The Undersigned in returning thanks to the Chargé d'Affairs for the sentiments which he expresses in the said note and for his wish to promote the views of the King, cannot however do less than make some observations as to the conditions under which he has thought it right to offer the requested mediation, which go beyond the object of the King's desire, namely the stoppage of bloodshed in Sicily.

The Undersigned in applying to Lord Napier by order of his Sovereign for this purpose, did not omit to inform him that His Majesty's object was to put an end to the slaughter in order to be able calmly to consider the obstacles which may yet exist to the perfect re-establishment of order, tranquillity, and public safety, and subsequently to consult on the means of following out the salutary object of the King.

The King by a Royal Decree of the 29th ultimo has given an undeniable proof of his desire and determination to provide for the wants of his subjects by conceding to them a Constitutional system common to both parts of his dominions, which the Sicilians might have begun to enjoy, the institution of the national guard being sanctioned by the same decree, and a general amnesty having been proclaimed in a separate one, which last were suggested by the Chargé d'Affaires in his above-mentioned note.

As to the other observations of Lord Napier, the Undersigned finds it his duty to observe that His Majesty, religiously respecting the sacred character of Treaties, cannot lightly expose himself to the charge of having failed in the execution of the same, and of having deviated from the principle of the union of his States in one sole Kingdom, sanctioned in Article CIV of the Congress of Vienna of June 9, 1815, signed by the Plenipotentiaries of Her Britannic Majesty and the other great Powers who took part therein for the purpose of reorganizing the international law of Europe which had been nullified by the preceding disturbances.

The Undersigned, after these observations, hopes that Lord

Napier will see the justice of the reasons why His Majesty cannot accept the mediation offered by him, as the wisdom of the King and his love for his subjects must be a sufficient guarantee that His Majesty with all good will will adopt such measures as may accord with the engagements which he has entered into, in common with the Great Powers, for the happiness of his people.

The Undersigned, &c.

Lord Napier. DUKE OF SERRA CAPRIOLA.

(*Inclosure* 2.)—*Lord Napier to the Duke of Serra Capriola.*

Naples, February 9, 1848.

THE Undersigned, &c., has the honour to acknowledge the receipt of a note in reply to his communication of the 1st instant from his Excellency the Duke of Serra Capriola, &c., under date of the 5th instant, but which was not delivered until the 8th, by which the Undersigned is informed that the mediation of Her Majesty's Legation between the Government of Naples and the revolted party in Sicily, invoked by the former in order to arrest the further effusion of blood, cannot be accepted by the Government of His Sicilian Majesty on the conditions proposed by the Undersigned.

His Excellency the Duke of Serra Capriola has also honoured the Undersigned by adding some reflections which may afford matter for the following observations.

When the Undersigned suggested as one of the conditions of his mediation that a national guard should be constituted in Sicily, he was well aware that such a measure was contemplated by the Royal Ordinance of the 29th ultimo; but though the Undersigned beheld n that ordinance an expression of His Sicilian Majesty's paternal olicitude for the welfare of all his subjects, he was yet prepared to egard it as more peculiarly applicable in its provisions to Naples, n interpretation which the Undersigned thought would admit latitude that might prove convenient in certain contingencies, and hich the Undersigned can scarcely abandon without some feeling f reluctance.

The Undersigned also apprehended that an urgent necessity revailed in Sicily, which is the actual seat of armed disturbance, r a more immediate incorporation of a national guard than that reseen by the terms of the Ordinance of the 29th, which asserts e embodiment of such a force as one of the Articles of a project Constitution to be submitted to His Majesty the King within 10 ys from the above-mentioned date, and in conformity doubtless th the terms of a special law to be sanctioned for that object at a riod which is not fixed.

In respect to an amnesty of the amplest character which the dersigned suggested as one of the conditions which would be

likely to render his mediation successful, the Undersigned submits to his Excellency the Duke of Serra Capriola, that the act of grace published by His Sicilian Majesty on the 1st instant is not identical with that which he ventured to designate; for the former has reference to political offences committed since the year 1830, and might therefore possibly not cover all the parties engaged in the war of Sicily; and moreover, unless it were of an unlimited and prospective nature, which is not stated, it could not apply to offences committed subsequently by the Sicilians in the interval between the 1st of February and the date of acceptance by both parties and the exercise by the Undersigned of the mediation proposed.

Finally the Undersigned is not enabled to recognize in the terms of Article CIV in the Treaty of Vienna of June 9, 1815, any obstacle to the conditions of mediation which he had the honour to propose. That Article simply asserts the restoration of King Ferdinand IV to the Throne of Naples, and recognizes His Majesty as King of the Kingdom of the Two Sicilies, but it does not affirm any absolute union or conformity of political institutions, for had such been the case the Parliamentary rights enjoyed by Sicily would surely have been conveyed to Naples together with the long-expected presence and authority of a legitimate Sovereign. Such however did not prove to be the case. When the purely monarchical Kingdom of Naples at length reverted to that natural allegiance never forsaken by more fortunate Sicily, the Parliamentary institutions of the latter were not imparted to the peninsula, for we have no notice of their introduction by any public instrument; while we possess in Article X of the Decree of December 11, 1816, an incontestible proof that the Parliament of Sicily survived as part of the Constitution of that portion of the realm, and that its consent remained essential to legalize the augmentation of the Sicilian contingent of revenue; and the Undersigned is consequently at a loss to discover that any union save that of the Crowns was established by the Treaty of Vienna between the two great members of the Sicilian Monarchy, or that the said Treaty opposed any valid impediment to the acceptance by the Neapolitan Government of the conditional mediation offered by the Undersigned, a mediation which however the Undersigned does not press upon the Government of His Sicilian Majesty nor dispute their right to refuse.

The Undersigned having presented the foregoing remarks to his Excellency the Duke of Serra Capriola in the hope that they may be found to elucidate a subject which attracts the prolonged consideration of the Neapolitan Government, avails himself of this opportunity to congratulate his Excellency the Duke of Serra Capriola on the prospect of reconciliation and tranquillity opened by

the late gracious resolution of His Sicilian Majesty to appoint and continue in Sicily the benefits of a separate representative legislature.

This resolution, communicated to the Undersigned by his Excellency the Minister of the Interior, and confirmed to him on the 3rd instant in the august presence of His Sicilian Majesty, and in the Council of Ministers, was blended with the proposal of some participation on the part of the Undersigned in the preliminary negotiation and guarantee of an armistice, which it was believed would facilitate the communication to the Sicilians of His Majesty's gracious designs for their welfare and contentment.

The Undersigned presumed indeed by the subsequent silence of the Duke of Serra Capriola, that the views of the Neapolitan Government had been modified in respect to his co-operation in that particular object; but the Undersigned is gratified by learning from the Earl of Minto, Her Britannic Majesty's Envoy Extraordinary on a separate mission, that the Neapolitan Government have not at all abandoned the general principle of a separate legislature in Sicily, which the Undersigned concurs with them in hoping will contribute to arrest a deplorable conflict of which we are still the regretful and impatient spectators.

The Undersigned, &c.

The Duke of Serra Capriola. NAPIER.

No. 72.—The Earl of Minto to Visct. Palmerston.—(Rec. Feb. 21.)

My Lord, *Naples, February* 11, 1848.

When the King announced his intention of granting a free Constitution, it was at first proposed that there should be a legislative union of the Two Sicilies with the same Parliament.

The Sicilians, however, who conceived that they had won back their Constitution of 1812, which though long suspended had never been revoked, were not disposed to abandon the assertion of their ancient rights by the acceptance of a new Constitution at the hands of the King, and they still more strongly objected to a legislative union which might in a great measure subject them to Neapolitan authority.

This design therefore was abandoned, and it was determined that a separate legislature should be given to each of the Two Sicilies.

But here a difficulty arose. The King, in order to maintain the absolute unity of the Kingdom of the Two Sicilies, as understood by him to be recognized by Article CIV of the Treaty of Vienna, in 1815, insisted upon establishing, by his own authority, one Constitution comprehending separate legislatures for the two

countries, and would admit of no intervention of the old Sicilian Parliament in the revision of its institutions.

The Sicilians on the other hand, elated with the success of their arms against the King's troops, and undisputed masters of the country, were bent upon the convocation of their own Parliament to sanction any changes which it might be expedient to make in the Constitution.

This would doubtless have been the easiest as well as the legal course to proceed in; but as it was one to which there was no hope of obtaining the King's consent, all his Ministers except one being Neapolitans, it became necessary to seek some means of rendering the Constitution to be established by the King as acceptable as possible to the Sicilians, in form and substance.

I had several conferences with the Duc de Serra Capriola and M. Bozzelli on this subject, and they at length consented not to require an absolute uniformity in the constitution of the Parliaments of the two parts of the Kingdom, giving to Sicily, if desired, an hereditary Peerage, and consulting the wishes of the country in other details of the arrangement.

I was also assured that the new Constitution should as regards Sicily be introduced with a preamble referring to the ancient rights of that Kingdom and to the altered circumstances of the country, to which the Constitution established in 1812 was no longer adapted; thus in some degree appearing to connect what is now to be done, with existing rights and tradition.

On this assurance I consented to employ such influence as my advice might have in Sicily, to induce the people to accept any fair Constitution that might be presented to them, subject to its confirmation in their first Parliament.

But here the Government has given me no assistance; they have had no communication, public or private, with the General Committee of Palermo, nor indeed, so far as I can learn, with any one in or connected with the island. They have sought no means either of learning what is desired there or of procuring support for their plan.

This evening the Constitution for the Two Sicilies, of which a copy shall be sent to your Lordship, has been published, avowedly establishing one united Parliament for the two countries, and only leaving an opening for the different arrangement which is intended, in the very vague reservation of the insular question in Article LXXXVII.

It is easy to foresee what effect the receipt of this proclamation in Sicily must produce, as following the assurances yesterday transmitted there by me.

As I was much engaged this evening, Lord Napier was good

enough to wait upon M. Bozzelli, to remonstrate in his own name and in mine against this apparent abandonment of the assurances which he had authorized me to convey to Sicily; and his Excellency has undertaken to supply the omission.

But in the meanwhile an unfavourable impression will have been made in Sicily, and some violent resolutions may be taken.

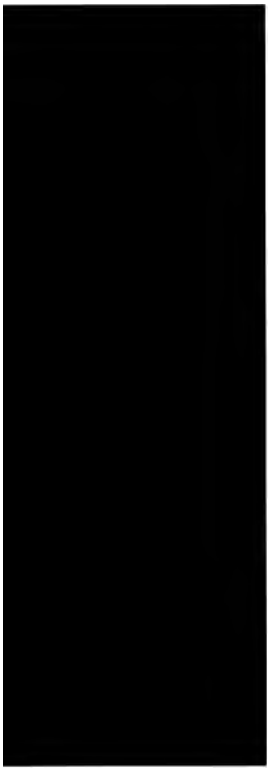
My own inclination would have led me to refrain from all interference, and to leave the Government of Naples and the Sicilians to take their own course, in which case the latter would have re-established their old Constitution and left Naples under the new one. But in the first place it was to be feared that the Sicilians would not have stopped here, and would have entirely thrown off their allegiance to the King of Naples. This they are quite prepared to do. And in the next place I feel it to be of incalculable importance that these affairs should be settled as quickly as possible, and before they become a subject of European dissension or discussion.

I found on my arrival here a great distrust of the intentions of the British Government, which, notwithstanding all my exertions to promote a reconciliation with Sicily, is scarcely yet entirely removed.

The strangest suspicions were entertained of our designs on Sicily, and I was asked with great earnestness what were our views with regard to that island and the maintenance of its connection with the Crown of Naples. I was told that the Sicilians aimed at a separation and that they looked to England for support.

My language on these occasions has been that we recognized the obligations of Article CIV of the Treaty of Vienna, so far as it went; and that it was our wish and our interest that the union of the Crowns as then provided for should be maintained. That I was ready to make it clearly understood in Sicily that no support or countenance was to be expected from England in any attempt to separate from Naples, so long (as appeared at present to be attended) as their rights were respected and fair conditions were offered to them.

But I at the same time always observed that I held the suspension of the Constitution of 1812 and the establishment of arbitrary government in Sicily to have been an illegal usurpation which the Sicilians were justified in resisting; that they are at this moment strictly speaking entitled to the enjoyment of that Constitution, and cannot be regarded as in rebellion against a lawful authority. That as a point of fact it was Naples which was reunited to Sicily by the Treaty of Vienna, no new disposition of the latter being then made; but we, in maintaining the union of the Kingdom under that Treaty, must be understood as not less respecting the rights of the people than the unity of the sovereignty; and that the free con-



MY LORD,

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to the proposed changes in the
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The Earl of Minto.

No. 82.—*Lord Napier to Vis*

MY LORD,

I HAVE the honour to subm
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answer to my communication
Lordship in my despatch of th

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It appears that the Neapo

ancient parliamentary rights of Sicily passed to the whole realm, and obtained a legitimate existence at Naples as well as at Palermo, but from this deduction the Neapolitan Government would certainly dissent.

I believe it can scarcely be doubted that the Constitution of 1812 never was modified or abolished by any legal act whatever, for it never ceased to exist by its own consent, but that it gradually sank into insignificance and apparent extinction under the cautious but at length successful usurpations of the Court and Government of Naples.

The convocation of the Parliament of 1812, in so far as the change of times renders such a measure possible, would in my opinion have been by far the most wise and prudent, as it undoubtedly was the only legal course open to His Sicilian Majesty. Unfortunately, at an early period in the late transactions, so strong a repugnance to that Constitution was expressed here that it is no longer to be hoped for; and the subsequent publication of a Representative Constitution applicable to both countries, in which it is impossible not to recognize a most enlightened spirit, renders it desirable that the Sicilians should embrace the latter with such modifications as seem most adapted to meet their condition and desires.

It is to this end that the exertions of the Earl of Minto are constantly directed, but his Lordship meets with great difficulties.

I have, &c.

Viscount Palmerston, G.C.B. NAPIER.

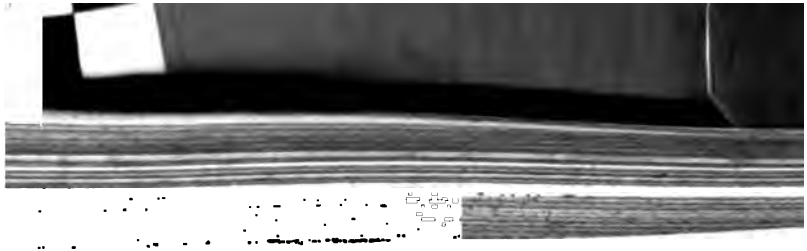
(*Inclosure.*)—*The Duke of Serra Capriola to Lord Napier.*

(Translation.) *Naples, February* 11, 1848.

THE Undersigned, &c., has received the note of the 9th current addressed to him by Lord Napier, &c., in answer to his own of the 5th, and in reply finds it his duty to call his attention to the following points.

In accordance with Article CIV of the Congress of Vienna of June 9, 1815, the august Sovereign of the Undersigned cannot be considered in any other light than as King of the Kingdom of the Two Sicilies, as the Undersigned has always declared to the Chargé d'Affaires.

The concession therefore of a national guard which was included amongst those which the King afforded to his subjects by the Royal Decree of the 29th ultimo, was common to both parts of the Kingdom; and if a special organic law has not yet been sanctioned for the formation of the same, that did not preclude the establishment of a provisional one in Sicily for the restoration of



remark that the King, his master, has never lost sight of the happiness, prosperity, and well-being of all his subjects, a clear and convincing proof of which His Majesty has given to all Europe by the Constitution which was sanctioned and proclaimed to all his Kingdom by the Sovereign Decree of the 10th February.

The Undersigned, &c.

Lord Napier. DUKE OF SERRA CAPRIOLA.

No. 91.—*The Earl of Minto to Viscᵗ. Palmerston.*—(*Rec. Feb.* 29.)

My Lord, *Naples, February* 18, 1848.

Having received information on which I could rely, that the proposal for an equal representation of Sicily and Naples in the Mixed Commission of the two Parliaments intended to be established, had been negatived in the Council of Ministers, where one Sicilian only, M. Scovazzo, has a seat, although no intimation of this decision had yet been communicated to me by the Duke of Serra Capriola, I wrote to his Excellency desiring to be admitted to an audience of His Majesty the next day.

His Majesty received me with much cordiality and listened to me with attention whilst I represented the great danger attending any delay in the pacification of Sicily, and the expediency of offering at once such conditions as were likely to be accepted.

I then proceeded to state that having been given to understand that His Majesty individually objected to the establishment of an entirely distinct and independent Legislature in Sicily, I had hitherto refrained from advising recourse to such a measure, which however in my own opinion was the most advantageous to him and was best calculated to afford satisfaction to both parts of his dominions, and that I had therefore confined my views to the expedient devised by his Ministers of separate Parliaments for provincial legislation alone, leaving all questions of general interest to be disposed of by another common legislature to be formed of a deputation from each of the two Parliaments.

That an insuperable difficulty however here at once presented itself, the Neapolitan Ministers demanding for their larger territory a preponderance in the Mixed Legislature to be established, while the Sicilians insisted upon a parity of representation, urging truly, that with a constant majority against them, Sicily would be practically deprived of a voice and be subjected to the Parliament of Naples.

Under these circumstances I said that I saw no other course open than the admission of totally independent Parliaments for each of the two divisions of the Kingdom with an union only of the Crowns.

His Majesty listened very favourably to this proposal and to all my observations in support of it, and after a conversation of some length, in which the subject was fully discussed, the King said that he would submit it to his Ministers.

I had afterwards an opportunity of ascertaining that His Majesty had recommended my suggestions to the immediate attention of his Council, and that he had faithfully reported to M. Bozzelli (and I have no doubt also to the Duke of Serra Capriola) the substance of my conversation with him.

On my return from the Palace I called on the Duke of Serra Capriola, and finding him from home I wrote him a few lines mentioning the advice which I had given the King, in order that it might be considered in the Council to assemble next morning for the purpose of formally declaring its decision on the course to be taken with regard to Sicily.

The Duke of Serra Capriola and M. Bozzelli called upon me yesterday evening after the rising of the Council, putting into my hands a long and elaborate minute, of which a copy will be sent to your Lordship, comprising, as they stated, the terms they were prepared to offer to the Sicilians, and which they were anxious to have communicated to the Provisional Government at Palermo.

I assured them that it was useless to propose such conditions; that I had a few hours before received communications from Palermo which satisfied me that the Sicilians would not treat on such a basis; and that while they expressed their satisfaction with the explanations contained in my letter of the 12th to Mr. Goodwin, this evidently arose from their having misunderstood and greatly overrated the extent of the concessions which I had encouraged them to expect.

I need not fatigue your Lordship with the recapitulation of all that passed in a long discussion on the subject in which I sought as strongly as I could to impress upon the Ministers the importance of an early reconciliation with Sicily, and the unreasonableness of affecting to deal with it as a conquered State which was to submit itself to the judgment of Neapolitan Ministers. I promised however to consider their paper attentively and to transmit it for them to Palermo if such was their desire.

After an attentive perusal of this document after they had left me, I felt that I must not allow it to be said that I had by my silence acquiesced in the forced interpretation of Article CIV of the Treaty of Vienna, as a revocation of the free Constitution of Sicily, and I therefore shortly protested in my own name against this doctrine, in a memorandum containing some remarks on the minute of Council which I addressed to the Duke of Serra Capriola, and a copy of which shall be sent to your Lordship.

I have since learned that on the receipt of this memorandum a Council was summoned for to-morrow morning, but it is probable that the result of their deliberations may not reach me in time for the packet. I have, &c.

Viscount Palmerston, G.C.B. MINTO.

No. 92.—The Earl of Minto to Visc^t^. Palmerston.—(Rec. Feb. 29.)

My Lord, *Naples, February 19, 1848.*

With reference to my previous despatch, I have the honour to transmit to your Lordship herewith the papers to which allusion is therein made, viz., copies of the Neapolitan Minute of Council, together with the memorandum I submitted to the Duke of Serra Capriola in reply. I have, &c.

Viscount Palmerston, G.C.B. MINTO.

(*Inclosure* 1.)—*Neapolitan Minute of Council.*

(Translation.)

Lord Minto having shown so much friendly readiness to employ his good offices with a view to the re-establishment of tranquillity and peace in the royal dominions beyond the Straits, His Majesty consents to confer upon him the powers requisite for so delicate a mission. But Lord Minto's sagacity will point out to him that these powers must necessarily be limited by a principle of public law, of which the importance is very perceptible.

The Kingdom of the Two Sicilies is most undoubtedly a single Kingdom, recognized as such by existing Treaties and by the Great Powers of Europe. For which reason everything that has a tendency either directly or indirectly to violate the unity of the Kingdom must be excluded as an element of negotiation. This principle once established, the consequences resulting from it are most obvious.

In compliance with the unanimous wish of his beloved subjects and in a movement of paternal affection, His Majesty proclaimed and sanctioned irrevocably on the 10th of February of this year, a Constitution with representative forms. Public writers in both hemispheres will decide whether any one element of political liberty has been omitted in the framing of it, or whether it were possible to exhibit a greater amount of good faith in the arrangement of its details.

This Constitution therefore should be one and the same throughout the whole Kingdom. Every pretension to the contrary would be destructive to the unity of the State.

It is asserted that the royal dominions beyond the Straits are so circumstanced and have wants of so special a nature as indispensably

to require a corresponding peculiarity of guarantees. His Majesty having foreseen this case had taken care to declare in Article LXXXVII of the Constitution, that a door was left open for the modification in this sense of certain parts of it, in order that undoubted elements of prosperity and security might thereby be ensured to those inhabitants. And being subsequently solicited to state what might be the nature of those modifications, His Majesty at once made known the greatest, the most fundamental, the most comprehensive which it is possible to imagine, namely the grant of a separate and independent Parliament.

But although this separate Parliament, invested with the same identical powers as that of Naples and composed likewise of two Chambers, is intended to provide for that speciality of circumstances and of wants, it is logically evident that it cannot apply to any matters except such as relate to the internal administration of those royal dominions. This is the leading principle which must never be lost sight of, if it is wished to preserve complete harmony between the means and the end.

It is clear that in order to ensure the prosperity of the internal administration of those Royal dominions, it would be necessary that the separate Parliament should be accompanied by a Ministry and Council of State likewise separate and distinct from that of Naples, and consequently that all the civil appointments and ecclesiastical preferments should be conferred on Sicilian citizens exclusively. And in this respect therefore the King has determined that some such arrangement should be made.

In the same way it is indispensable, as has always been the case, that a Lord Lieutenant should reside there invested with high powers, who as immediately representing the person of the King would render it unnecessary for the inhabitants to cross the seas in order to obtain the solution of the different questions arising. But the choice of the Lieutenant must continue a prerogative of the Crown, as it would be strange indeed that whereas the meanest citizen possesses the right of electing in his stead the Deputies to Parliament, the King alone should be debarred from the free choice of his delegate in the executive power which is vested exclusively in him.

It is evident, on the other hand, that in matters of common interest to the entire Kingdom the two Parliaments should be consulted and heard, and it not being practicable to assemble the two Parliaments in their complete integrity, it would be necessary to have recourse to the expedient of taking from their body commissions which would, when necessary, represent a mixed Parliament of reduced numbers; but this mixed Parliament ought always to be constituted in proportion to the amount of the respective popula-

tions, inasmuch as it would represent not two detached unities but two separate fractions of the same unity.

To compose this mixed Parliament of an equal number of delegates would be an evident infraction of the unity of the Kingdom.

In this principle is likewise included the unavoidable necessity that the King be empowered to dispose of the public forces in such a way as he shall consider best calculated to maintain the independence and integrity of the Kingdom against foreign Powers. To pretend that Sicilian troops only will occupy Sicily and Neapolitan troops alone Naples, would be an open destruction of all national character in the army, and would lead to the formation of two distinct fractions unknown to each other, which in case of war would render an efficacious and dignified resistance impossible.

Starting with these data, the powers with which the honourable Lord Minto might be invested would be to announce:

1st. That the King agrees to concede to his dominions beyond the Straits a separate Parliament composed of two Chambers, the one of Deputies, the other of Peers for life, with precisely the same functions as are attributed by the Constitution to the Parliament of his dominions on this side of the Straits.

2nd. That in the composition of the Chamber of Peers due regard should be had to the wishes and traditions of the Sicilians: wherefore His Majesty would not refuse to nominate Peers for life such persons as should have been disignated Peers in the ancient Parliaments, proceeding with respect to the remainder according to the rule laid down in the Constitution.

3rd. That with respect to the conditions of eligibility for the Deputies, the wants of those populations shall be consulted in the provisory electoral law, and also the present state of property in those royal dominions; and the above-mentioned law may be modified by the Parliament of Sicily in such manner as shall be deemed advisable at the period when, in accordance to Article LXII of the Constitution, the Parliament shall be called upon to make it permanent.

4th. That in addition to the separate Parliament, there shall be in the royal dominions beyond the Straits a Ministry and Council of State composed entirely of Sicilian citizens; civil appointments and ecclesiastical benefices shall be conferred in the same way, as also the grades in the national guard, the formation of which is established by law.

5th. That in those branches of the public service which are common to both parts of the royal dominions, a due number of Sicilian citizens shall be employed in proportion to the population of Sicily as compared with that of Naples; Sicily being bound also



I may be excused if I express my serious doubt of its being calculated in its present form to conciliate a favourable reception of the proposals it is intended to convey. In such discussions the position assumed by the opposite party should be borne in mind; it is here entirely overlooked, and the whole argument is made to rest on the assumption of premises which he utterly rejects. The Sicilian stands upon his claim of right to the Constitution of 1812, untouched, as he maintains, by the Treaty of Vienna; how can we expect him to listen to a paper which at the outset begins by assuming a state of things entirely inconsistent with the existence of any such right, and proceeds to tell him with great emphasis and authority that whatever he is to obtain must proceed from the spontaneous bounty of the King.

It is surely unwise to introduce such topics, the effect of which at once must be to close the ear and arm the feelings against any proposal of which they are the prelude. The whole course of argument throughout the paper appears to me open to a similar criticism as calculated to generate an adverse sentiment in the quarter to which it is addressed. These rhetorical exercitations, indeed, however ingenious, are more apt to provoke controversy than to produce conviction, and I do not believe them to be useful in the practical conduct of public affairs. Upon the whole, therefore, I am inclined to think that the bare statement of the 8 Articles, as recited in the latter part of the paper would be more likely to find favour than when encumbered with the introductory argument to which I have referred.

With regard to the conditions proposed in these 8 Articles, I observe:

That they do not admit of any hereditary Peerage. I know not what importance may be attached to this in Sicily, but it should be remembered that I was distinctly requested to state that a portion of the Peerage should be hereditary if desired, and I do not imagine it can be intended to retract this promise.

That it does not appear that the Sicilian contingents for the army are to be separately embodied.

That no intimation is given of the terms in which the preamble of the decree will recognize the constitutional rights of Sicily. This is a point upon which distinct information may be expected in a paper which is to be received as embodying the entire intentions of the Government.

That Articles VII and VIII appear to me fatal to all hope of accommodation.

Having offered these few observations, I am willing, if desired, to forward the Minute of Council in its present or an amended form, and it will give me much pleasure if it should meet with a

more favourable reception than I can at present venture to anticipate.

I will only add, that I cannot contemplate without much uneasiness the consequences of the delay to be incurred in attempts to drive a bargain, before any basis can be established on which a negotiation may be opened.

MINTO.

No. 100.—*Lord Napier to Viscount Palmerston.*—(*Rec. March* 14.)

My Lord, *Naples, February* 23, 1848.

I have the honour to submit to your Lordship herewith copy of a note addressed to Her Majesty's Legation in common with the Representatives of the other Powers which signed the Treaty of Vienna, by the Duke of Serra Capriola, in which are enumerated the various Articles of concession yielded by the Government of Naples to the Constitutional party in Sicily.

This note has already reached your Lordship in a shape slightly different, from the Earl of Minto, who has presented to the Neapolitan Government a reply, and thus rendered it superfluous for me to offer any observations on its tenor, until I be honoured by your Lordship's instructions to that effect.

I have, &c.

Viscount Palmerston, G.C.B. NAPIER.

(*Inclosure.*)—*The Duke of Serra Capriola to Lord Napier.*

(Translation.) *Naples, February* 18, 1848.

The desire of the public of the Two Sicilies to see the civil institutions of the State reorganized under the stable form of a Representative Constitution having become most clearly expressed, the King has deigned in his benevolence to concede such Constitution, as the only means of peace and prosperity for all his subjects, and has had the satisfaction of finding it immediately received in his dominions on this side of the Faro with unanimous sentiments of the greatest joy and gratitude. But with heartfelt pain did His Majesty learn that in his dominions on the other side the Faro grave differences had arisen with respect to certain principles upon which the said Constitution has been founded, on which account that part of his Kingdom had fallen into a deplorable state of commotion and disturbance.

For the purpose of re-establishing tranquillity by conciliatory measures His Majesty did not hesitate to accept the good offices which Lord Minto, &c., kindly offered to use in regard to the inhabitants in question, to bring them to a prompt and reasonable agreement, and after various conferences which had been held for

that purpose, the following memorandum has been sent to him by order of His Majesty.

[*Memorandum.* See Page 1319.]

It is easy to understand that in conferring these powers upon Lord Minto, which he will make such use of as in his prudence he may deem most expedient, the King's only object has been to provide for the well-being of his subjects, and at the same time to maintain inviolate and inviolable the unity of the Kingdom of the Two Sicilies, sanctioned and guaranteed to His Majesty for himself and his heirs and successors by Article CIV of the Treaty of Vienna of June 9, 1815. Hence it follows that if, in spite of his loyal and beneficent intentions, a different and fallacious interpretation should be given to the said Article, His Majesty does not consider himself able to decide alone so grave a question, and feels it necessary to call for the opinion of the Powers who signed the said Treaty.

The Undersigned, &c., who on this account has received express orders from his august Sovereign to make this matter known to Lord Napier, in fulfilling the King's commands finds it his duty to add that His Majesty the King of the Kingdom of the Two Sicilies cannot in any way doubt that Her Britannic Majesty, recognizing the prudence of the measures which he has adopted to secure the tranquillity and well-being of his States, will approve at the same time his firm resolution of not altering in any way the unity and full integrity of his dominions, and that should occasion require she will support him by her powerful and valuable aid.

The Undersigned, &c.

Lord Napier. DUKE OF SERRA CAPRIOLA.

No. 114.—*Viscount Palmerston to Viscount Ponsonby.**

My Lord, *Foreign Office, March* 15, 1848.

Her Majesty's Government have learnt with great regret that some misapprehension exists at Vienna as to the objects of the Earl of Minto's mission to Naples; and that his Lordship's endeavours to bring about a reconciliation between the King of Naples and his Neapolitan and Sicilian subjects have been greatly misrepresented. I accordingly deem it expedient to send your Excellency a succinct account of the circumstances which led to Lord Minto's visit to Naples, as well as of its objects and results.

On the 15th of December last, the Neapolitan Minister at this Court, at an interview which he had with me at his own request, expressed a wish to be informed whether Lord Minto, who was then at Rome, was likely to go to Naples. I told him that

* A similar despatch were addressed to Lord Bloomfield and to the Earl of Westmorland.

the instructions with which Lord Minto was then furnished did not prescribe any visit to Naples, but that if the King of Naples, should express any wish that Lord Minto should visit his capital, Lord Minto should immediately go thither for the purpose of conveying to His Sicilian Majesty the strongest assurances of the earnest desire of Her Majesty's Government to maintain and, if possible, to improve the relations of friendship which have so long united the two Crowns.

In accordance with the intimation thus given to Prince Castelcicala, letters of credence to the King of the Two Sicilies were forwarded to the Earl of Minto on the 16th of December last, and he was instructed to go on to Naples, if he should receive, through Lord Napier, Her Majesty's Chargé d'Affaires in that capital, an intimation that his presence would be agreeable to the King, and in that case he was instructed to hold to the Neapolitan Government the same language which he had already held to the Governments of Sardinia and Tuscany; namely, to encourage the King in effecting such improvements in the administration of his dominions as existing circumstances and the wants and reasonable wishes of His Majesty's subjects might seem to require; and Lord Minto was further directed to endeavour, as he has done elsewhere, to moderate the impatience of those persons whose object was reform; and to induce them, as far as lay in his power, to restrain their followers from breaking out into acts of violence, and to content themselves with seeking reform by means of reason and argument.

The Earl of Minto did not receive the invitation on which his journey to Naples was to depend, till after the Sicilian insurrection had broken out, and he was still at Rome when that event took place. On the 3rd of last February, rumours reached this country that the King of Naples had been compelled to grant, both to his Neapolitan and to his Sicilian subjects, the re-establishment of the Constitution of 1812, and I then authorised Lord Minto to proceed to Naples, even without an invitation of the King, if he should think it likely that he could be useful to His Majesty in smoothing down any difficulties in the practical application of the above arrangement, and in bringing about a good understanding between the King and his subjects. The Earl of Minto was at the same time instructed that it was the wish of Her Majesty's Government that the present dynasty of Naples should maintain itself upon the Throne, and that Sicily and Naples should remain united under one and the same Crown; and that it was because Her Majesty's Government foresaw that danger to the dynasty and to the union of the two countries would arise from the growing discontent of the nation, that Her Majesty's Government so anxiously wished that the King might remove that discontent by timely reform.

Events had however succeeded each other with such rapidity in Sicily and at Naples, that Lord Minto was compelled to proceed to Naples before the receipt of these instructions; his Lordship's own judgment and discretion, however, taught him to anticipate their tenor, and to act in every respect in conformity with the wishes and intentions of Her Majesty's Government. The Constitution granted by the King proved not to be that of 1812, but to be one based on the French Charter. It had been agreed to by the Neapolitans, but had been rejected by the Sicilians. The insurgents in Sicily had successfuly resisted the royal authorities, and the whole of Sicily, with the exception of the citadel of Messina, was in their hands. Under these circumstances the leaders of the Sicilian insurrection had applied to Her Majesty's Mission at Naples for its good offices in mediating between them and the Neapolitan Government, and in obtaining for them the Constitution of 1812, which they erroneously supposed to have been guaranteed to them by Great Britain. Lord Napier, then in charge of Her Majesty's Mission, had at the same time been applied to by the Neapolitan Government for his good offices in mediating between that Government and the Sicilians; and considering the gravity and importance of the matters at issue, he deemed it advisable to have the support and advice of a Minister of the British Crown, who happened to be so near to his place of residence as Rome. It was thus at his solicitation, that Lord Minto left Rome for Naples, for the purpose of assisting Lord Napier in the difficult circumstances in which he was placed. But the Earl of Minto was met half way, between Rome and Naples, by a messenger from the King of the Two Sicilies, bearing a pressing invitation to him to come, and it was consequently in accordance with the wish of every person interested in the matter that the Earl of Minto reached Naples.

On the receipt by Her Majesty's Government of the intelligence of Lord Minto's departure from Rome, the decision taken by his Lordship was approved of, and he was at the same time informed that the arrangements between the King of the Two Siciles and his subjects, which would be most consonant with the wishes of Her Majesty's Government, because most conducive to the strength and union of the Neapolitan Monarchy, would be, that there should be one Parliament for the whole Kingdom; and that Sicily and the Neapolitan Provinces should be represented in their due proportion in the two Houses of which that Parliament would consist; but he was told that if there should arise any insurmountable obstacles to such an arrangement, then two Parliaments, one for Naples and the other for Sicily, would become unavoidable.

On the arrival of the Earl of Minto at Naples he was again

invited by both parties to mediate, and he accordingly used his best endeavours to bring about an understanding between the King of Naples and his Sicilian subjects, but he soon found that an arrangement such as that which Her Majesty's Government greatly preferred, viz., one Parliament for both kingdoms, might perhaps have been practicable at an earlier period, but was no longer attainable, and that the hesitation of the Neapolitan Government to make timely concessions, had borne its natural fruit in the shape of increased demands on the part of the popular and successful party. Lord Minto, accordingly, feeling that an early settlement of the Sicilian question, upon almost any terms, had become imperatively necessary, in order to preserve the union between the two countries, exerted himself to the utmost in devising means of accommodation. Notwithstanding the difficulties with which he had to contend, he was on the point of succeeding when the negotiation was broken off, because the Neapolitan Government was not disposed to agree to a demand made by the Sicilians that Sicily should be garrisoned only by Sicilian troops; and the ground of this decision on the part of the Neapolitan Government is said to be a suspicion, to which they had been led by designing and mischievous persons, that Great Britain might avail herself of the circumstance of Sicily being so garrisoned in order to realize projects which the parties in question accused her of entertaining with respect to that island; those imputed projects are indeed so absurd and so contrary to every principle by which the policy of Great Britain is guided, that it can hardly be necessary seriously to repudiate them; but I would remind your Excellency that the great wish of Her Majesty's Government in regard to these affairs has ever been to maintain the present state of territorial possession in Europe, because Her Majesty's Government are convinced that no material changes could be effected therein without leading to events which would involve Europe in war; and because they consider the preservation of peace to be one of the first objects, to the attainment of which the efforts of every European statesman should be directed. Upon general principles, therefore, they must wish to see the Kingdom of the Two Sicilies remain undismembered; and as to any desire which may be attributed to Her Majesty's Government to obtain possession of Sicily, it may be enough to say that the expense and embarrassment of such a possession would far more than counterbalance any possible advantage which Great Britain could derive from its acquisition.

If the Earl of Minto has hitherto failed in his endeavours to bring about the accommodation between His Sicilian Majesty and his subjects, which was so much desired by Her Majesty's Government, the causes must be sought in the hesitation of the Neapolitan

Government to do betimes that which was right; in the want of confidence which their previous conduct had engendered in the minds of their subjects; and in the evil counsels to which they may have lent too willing an ear. Her Majesty's Government however still hope that an arrangement may be made which will continue the union of Sicily and Naples under the same Crown.

I am, &c.

H.E. Viscount Ponsonby. PALMERSTON.

No. 134.—*Lord Napier to Viscount Palmerston.*—(*Rec. March* 30.)

MY LORD, *Naples, March* 19, 1848.

I HAVE the honour to transmit to your Lordship herewith 5 despatches from the Earl of Minto, which reached me under flying seal on the evening of the 15th instant.

On the receipt of these despatches and of additional particulars contained in unofficial letters, I immediately called upon M. Scovazzo, Secretary of State for Sicilian Affairs, and communicated to him with perfect freedom all the information of which I was thus possessed.

I read to his Excellency the Earl of Minto's despatch of the 13th, conveying an ample narrative of his Lordship's intercourse with the agents of the General Committee of Palermo; a letter from the Earl of Minto to myself; a letter from Mr. Erskine accompanying an ultimatum presented by the deputation of the General Committee; and the ultimatum itself, of which his Excellency took a copy.

Having mastered the whole subject with the greatest ease, M. Scovazzo expressed his desire to make His Majesty the King acquainted with all the features of the case on the following morning.

With this view I caused an Italian translation to be prepared of the Earl of Minto's letter, and I empowered M. Scovazzo to read to the King his Lordship's despatch of the 13th March, in the same language, and to express to the King at the same time my readiness to wait upon His Majesty should he desire to obtain any additional explanations.

On the ensuing forenoon (March 16th) M. Scovazzo after again communicating with me, proceeded to the Palace, where he imparted to His Majesty the Earl of Minto's statements, and Prince Cariati having been called to the audience, his Excellency was made equally cognizant of the state of affairs.

M. Scovazzo then returned to Her Majesty's Legation to give me an account of what had passed, and told me at the same time that Prince Cariati had expressed a wish to have a copy of the Sicilian ultimatum delivered to him in an official note.

This I was not enabled to do, having no official character in the transaction, and the Earl of Minto having himself withdrawn from all direct participation in the negotiation; but I transmitted the ultimatum to Prince Cariati in a letter herein inclosed, which I concerted with M. Scovazzo, and which I begged Prince Cariati to regard as addressed simply to himself, and as the frank expression of my personal opinion respecting the course which it would be expedient to pursue in the present serious emergency.

The Council did not meet on that evening for the discussion of Sicilian affairs as I had been assured it would, but it was appointed to assemble on the following day, March 17.

In the course of the night I called on Prince Cariati, and saw him again in the morning previous to the opening of the deliberation; and lest his Excellency should not thoroughly have apprehended the sense of the Earl of Minto's letters, I read them over with him with the nicest attention, and left them in his Excellency's hands for the use of the Council.

No resolution was embraced on that day; and on the following morning, yesterday, I had another interview with Prince Cariati at which M. Savarese, Minister of Public Works, was also present.

I believe I may thus condense the opinions expressed by Prince Cariati, and the reflections which I have ventured to offer in the various conversations which have occurred between his Excellency and myself.

Prince Cariati is opposed to the acceptance of the Sicilian ultimatum, for the following reasons:

Because to accept it, would violate Article CIV of the Treaty of Vienna.

Because it would violate the Constitution granted to the Kingdom of the Two Sicilies by the King, and render the Neapolitan Ministers responsible for such violation.

Because, should the ultimatum be rejected, and should Sicily in consequence cast off its allegiance, Sicily would be restored by the Allied Powers to Naples, or it would fall into anarchy and become easily subjected by the Neapolitan forces, which would probably be invoked by the respectable portion of its inhabitants.

To these views I have opposed the following arguments, explicitly stating that they were not to be received in an official sense, but merely in the way of personal counsel, and as matter which I hoped might be worthy of consideration.

Article CIV of the Treaty of Vienna is open to two interpretations.

It asserts the union of the Crowns and institutions of Sicily and Naples, or the union of the Crowns only.

The former interpretation was in the first instance held by the

Neapolitan Government, but they had subsequently abandoned it, for by the concessions carried to Sicily by the Earl of Minto, a distinct and different Constitution was granted to that country; and thus the Neapolitan Government had adopted the latter interpretation, which offered no valid impediment to the acceptance of the Sicilian ultimatum, for that ultimatum recognized the union of the Crowns.

It is true that the Sicilians demand an extensive alienation of the exercise of the Royal prerogative, but the Treaty of Vienna did not bind the King in that respect; the King had abandoned a part of his prerogative in giving a Legislative Constitution to Naples; he might do so in a greater degree to Sicily if such were his Royal will.

The Treaty of Vienna consequently opposed no obstacle to the acceptance of the Sicilian conditions.

Nor did the Constitution granted by the King; for that Constitution would not thereby be violated in any greater degree than it had already been, by the departure from its terms, involved in the concessions on which the Earl of Minto had been empowered to treat. Those terms offered a separate and different Constitution to Sicily; the ultimatum demanded, in addition to this, an abandonment of the exercise of the Royal prerogative in favour of a Viceroy; but the Constitution of Naples could not fetter the King in any modification of his prerogative which he might adopt towards Sicily; and for such modification the Neapolitan Ministers could not be responsible; for a decree to that effect would not be countersigned by them, but by the Secretary of State for Sicily, and he alone would be responsible, but to the Sicilian, not to the Neapolitan Parliament.

It is true that the Sicilian ultimatum contained certain articles affecting the disposal of State property such as vessels and stores of war, and one respecting the indemnity for damage inflicted on the Porto Franco of Messina, matters which might be judged to fall within the province of the Neapolitan Parliament; but at present the Neapolitan Government were only called on to recognize the principle of a proportional repartition of the State property above mentioned, and to promise its execution, which would no doubt be carried into effect by Commissions of the respective Parliaments; for the principle was undeniably just. In regard to the indemnity, the justice of such a claim could only be proved by ulterior investigation, and the settlement of the question would probably on proper representation be left to the decision of the Parliaments; but should the Sicilians prove unreasonably obstinate on this article, the Neapolitan Ministers might yet assume a responsibility

which they could justify to Parliament by the urgent necessity of the case.

Proceeding to Prince Cariati's assertion that should Sicily cast off its allegiance it would be restored to the Neapolitan Crown by the arms of Allied Powers, I submitted to his Excellency that in the present conjuncture of affairs, such a result was by no means so certain as he might suppose; that I could not assert that Great Britain would interfere by force of arms to maintain the settlement made by the Treaty of Vienna, though such might possibly be the determination of Her Majesty's Government if appealed to; that his Excellency must be sensible that there were serious obstacles to such a course on the part of the German Powers, but that at best no small time must elapse before such an intervention, whether single or combined, could be rendered effectual; and that in the perilous interval the existence of a Revolutionary or Republican Government at Palermo would not only have a disastrous influence at Naples and especially in Calabria, so deeply disaffected to the reigning family, and where the materials of explosion were already collected, but would give an irresistible stimulus to the anti-monarchical faction throughout Italy.

The hypothesis advanced by his Excellency of an appeal from Sicily to Naples for assistance in consequence of the impending prevalence of anarchy, was, I contended, extremely improbable and certainly remote; for the Sicilians had exhibited a remarkable facility of self-organization, which would naturally be consolidated by the convocation of the General Parliament, in which all classes except the lowest would be embraced and represented.

Prince Cariati also occasionally stated, though merely as his personal conviction, that Naples could do perfectly well without Sicily; that it had formerly, for 10 years during the war, so existed and flourished; that Sicily contributed in no degree to its welfare, having only a dynastic importance for the House of Bourbon, but no material interest for the Kingdom of Naples; and that for his part, as a Neapolitan, he wished the connection could be severed for ever. Nor was his Excellency of opinion that the King himself had much at stake in accepting or rejecting the present proposals, for there was little honour he said in retaining a barren crown; and should His Majesty stoop to take a dignity so diminished, he would exercise about as much authority in Sicily, as he does over his titular and shadowy dominion of Jerusalem. "And how," added Prince Cariati, "will the King be insured against the loss even of this nominal kingdom at any subsequent period, when a popular Viceroy or a rebellious mob may choose to wrest it from him?"

To these remarks I objected that though Naples might without

Sicily possess the resources necessary to make it a powerful and prosperous country, I could not admit that it derived no material advantages from the contiguity and intercourse of Sicily, the commerce of which with Naples, as members of the same realm, is probably mutually more profitable than it would be, were the two countries separated under hostile circumstances; but granting that Sicily were of little importance generally to the welfare of Naples, that could not be practically true at the present moment; for should Sicily renounce its present allegiance, it must assume an order of Government either republican or monarchical, the first entailing all the disadvantages already indicated, the latter involving the choice of a sovereign, most likely from one of the reigning Italian families, which would introduce a germ of jealousy and enmity between the States of the peninsula, which would be fatal to that scheme of union and alliance so much desired; whereas should the King resolve to accept the Sicilian terms, unjust and unworthy as they are, he might still, by a judicious choice of his lieutenant, possess in reality, if not in form, a great share in the government of the country, and await the reaction of a quieter time when modifications might possibly be introduced by the Sicilian Legislature of a nature more favourable to the royal prerogative. Nor would the union of the crowns, and the King's sovereignty in Sicily be permanently exposed to such danger as at the present moment; for the Great Powers might in a future contingency be in a better position for controlling the Sicilians, and compelling them to adhere to their legitimate Sovereign, than is the case just now.

In holding the language which I have had the honour to submit to your Lordship, I was careful to disclaim all sympathy or approval on the part of the Earl of Minto or Her Majesty's Legation in regard to pretensions so preposterous as some of those advanced by the Sicilians; and I recommended their acceptance solely on the ground of necessity and for the purpose of avoiding greater evils contingent on a contrary course. In this view I know that I have the support of M. Savarese, an influential member of the Cabinet, who went so far as to declare in my presence and in that of Prince Cariati, that a republic at Palermo would make one at Naples in 3 days; and though that assertion may possibly be rash in respect to the capital, it might I believe be applied to Calabria with perfect aptness.

I cannot flatter myself that I have produced much effect upon Prince Cariati, who frankly maintained that a general war was inevitable, and that in the scuffle, Sicily would be conquered and restored to Naples. Nor was his Excellency sensible to my representations that it was our common duty to mitigate as much as possible every cause which could inflame the disorders menaced by the

revolution at Paris, and lead to the catastrophe which he predicted. Prince Cariati repeatedly insisted that war was imminent; that it might break out between the Sardinian and Austrian troops at any moment and spontaneously; that the French would strike a mighty blow at the Italian coasts, and that it would be consistent with the dignity and interests of Great Britain to strengthen her navy in the Mediterranean, to reduce the Sicilians to reason, to grant support to the legitimate Sovereigns of Italy, and oppose an armed front to the Republican propaganda, of which the malignant operation was already apparent.

I have, &c.

Viscount Palmerston, G.C.B. NAPIER.

No. 141.—*Prince Castelcicala to Viscount Palmerston.*

15, *Princes Street, Cavendish Square, April* 3, 1848.

PRINCE CASTELCICALA presents his compliments to Viscount Palmerston.

Prince Castelcicala has the honour to send to Lord Palmerston the inclosed despatch which his Excellency read last Saturday.

Prince Castelcicala will consider it as a particular favour if his Excellency will be so good as to send the answer to the Prince as soon as possible, in order that the Prince may send his courier to Naples with it.

Viscount Palmerston, G.C.B. CASTELCICALA.

(*Inclosure.*)—*Instruction of March* 20, 1848, *to Prince Castelcicala.*

(Translation.) *March* 20, 1848.

ON receipt of this you will go to Lord Palmerston to confer with his Lordship respecting the pretensions put forth by the Comitato at Palermo, of which he will have been informed by Lord Minto.

You will request him to declare frankly whether he still retains the opinions formerly held by him, and stated to me by you in the report No. 2431.

You will at the same time point out to him the serious difficulties which must ensue if England should vary from the principle of the union of the two portions of the royal dominions.

You will endeavour to obtain from him an assurance accordingly, and you will request him to write to Lord Minto, to the purport that he may observe towards the Sicilians a demeanour which may distinctly and unequivocally define the views of the British Cabinet.

You will immediately dispatch to me a courier with the reply; and you will request his Lordship to entrust his despatches on this subject to the same, or to another who may start at the same time.

I have further to communicate that the Royal Government is of opinion that the following basis cannot be departed from:

1. The Government is desirous that the principle of the integrity and unity of the Kingdom of the Two Sicilies be respected.

2. That the royal prerogative in the dominions beyond the Straits be neither more or less limited than as it is determined by the Constitution of the 10th February, 1848, for the dominions on this side of the Straits.

3. That the internal administration of the two portions of the royal dominions may be divided and distinct so far as not to invalidate the principles established in the preceding Articles Nos. 1 and 2.

No. 148.—*Viscount Palmerston to Lord Napier.*

My Lord, *Foreign Office, April* 6, 1848.

With reference to your Lordship's despatch of the 19th ultimo, giving the opinions expressed by Prince Cariati respecting Sicily, I have to observe that his argument that the conditions demanded by the Sicilians ought not to be conceded, because in his view those conditions were at variance with Article CIV of the Treaty of Vienna, was satisfactorily answered by your Lordship; but you might also have added that Article CIV contains nothing but an acknowledgment by the Allied Powers of a particular style and title adopted by the King of Naples, and that it does not preclude the King of Naples from changing that style and title if circumstances should at any time induce him to do so.

With regard to the opinion expressed by Prince Cariati that Sicily is of no importance to Naples, and that the Kingdom of Naples would go on as well if not better without being connected with Sicily, it may be observed that if that opinion is well founded it seems strange that the Neapolitan Government should of late have spent so much money and have made such military efforts to retain possession of Sicily; but at all events it is difficult to understand how Prince Cariati, entertaining such an opinion, could imagine that England would take the trouble and incur the expense of sending an armament to conquer Sicily in order to restore to Naples such a valueless and useless possession. But you may assure Prince Cariati that the British Government will undertake no such conquest, and will take no step to compel the Sicilians to reunite themselves to Naples, if the blind infatuation of the Neapolitan Government shall have provoked the Sicilians to sever the connection between Sicily and Naples.

I am, &c.

Lord Napier. PALMERSTON.

No. 152.—*Viscount Palmerston to Prince Castelcicala.*

Foreign Office, April 10, 1848.

Prince Castelcicala, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of the Two Sicilies, communi-

cated on the 3rd instant to the Undersigned, Her Majesty's Principal Secretary of State for Foreign Affairs, a despatch which he had received from the Neapolitan Government, directing him to call upon the British Government to declare whether it still retained the wish expressed on former occasions by the Undersigned, that the union of the two portions of the dominions of His Majesty the King of the Two Sicilies might be preserved, and if so, that the British Government should instruct Lord Minto to observe towards the Sicilians a demeanour which might leave no room for doubt as to the views of the British Cabinet. The despatch then proceeds to lay down the bases on which alone the Neapolitan Government consider that that union should rest. In execution of this instruction Prince Castelcicala at the same time presented an official note bearing date the 20th ultimo, embodying this demand.

As the tenor of these documents might lead to a misapprehension of the part taken by Her Majesty's Government and by the Earl of Minto with reference to these matters, the Undersigned in replying to Prince Castelcicala, will have the honour to recapitulate what were the circumstances under which the Earl of Minto undertook to mediate between His Majesty the King of the Two Sicilies and his subjects; what were the views of Her Majesty's Government in approving of his Lordship's decision; and what have been the causes which have rendered the endeavours of the Earl of Minto abortive, and have disappointed the hopes and wishes of Her Majesty's Government.

Prince Castelcicala will recollect that it was in consequence of a request addressed by His Majesty the King of the Two Sicilies to Lord Minto, and of an application from the Provisional Government established at Palermo to Lord Napier, that the Earl of Minto proceeded to Naples for the purpose of endeavouring to bring about, by his good offices, a good understanding and reconciliation between His Majesty and his Sicilian subjects. Her Majesty's Government on learning the step taken by the Earl of Minto immediately instructed his Lordship to use his best endeavours to preserve, not only the union of the two countries under one crown, but the legislative union of the two countries. These instructions did not reach the Earl Minto until some time after his arrival at Naples, but thoroughly in possession of the opinions of Her Majesty's Government with reference to the questions which are at present agitating Europe, his Lordship, of his own accord, before those instructions reached him, did everything in his power to bring about the arrangement desired by Her Majesty's Government. Lord Minto however soon had occasion to convince himself, that owing to the long hesitation of the Neapolitan Government to grant the moderate reforms with which the Sicilians would in the

first instance have been satisfied, a legislative union of the two countries had become no longer obtainable, and he was therefore obliged to limit the advice which he tendered to the Neapolitan Government to the recommendation of such measures as should preserve the union of the two countries under one Crown. The Undersigned is convinced that the conditions of arrangement recommended by the Earl of Minto would have been accepted by the Sicilians if they had been at once offered by the Government of Naples. This was indeed admitted by the members of the Provisional Government at their interview with the Earl of Minto on his arrival at Palermo. But the Neapolitan Government having lost precious time in futile discussions, the news of the French revolution reached Palermo before the Earl of Minto could get there, and this intelligence essentially changed the views of the Provisional Government.

On the arrival of the news of the French revolution at Naples before the departure of the Earl of Minto for Palermo, his Lordship had foreseen the effect which this event would have upon the Sicilians, and his Lordship in transmitting to Prince Cariati his note of the 6th of March, in which he recorded the terms which he and the Neapolitan Government had agreed should be offered to the Sicilians, accompanied that note by a memorandum of the same date, stating his opinion that the concessions therein made would no longer suffice, and that the events in France rendered more prompt and extensive concessions necessary in order to re-establish the royal authority; but at the same time stating his readiness still to proceed to Palermo and to endeavour to induce the Sicilians to accept the terms which had been settled.

Lord Minto on arriving at Palermo found matters exactly in the state which he had anticipated. The revolution in France had raised the pretensions of the Sicilians, and they were now no longer disposed to agree to the arrangement proposed by the Neapolitan Government which they would have gladly accepted a week before. Complete separation from the Neapolitan Crown, although under a Neapolitan Prince, was what they now demanded. The Earl of Minto however refused to land or to treat with them except on the condition of the union of the Crowns being preserved, and the Provisional Government in consequence abandoned this pretension, and framed the counter-proposals which the Earl of Minto undertook to remit to the Neapolitan Government, but which have subsequently been rejected by them.

These long delays on the part of the Neapolitan Government led to these results. They were no fault of Lord Minto's, but arose from that blindness to the progressive march of events which throughout the whole of these transactions, has characterized the

Neapolitan Government. Lord Minto, acting in strict accordance with the instructions and opinions of Her Majesty's Government, has done all that it was possible for him to do in order to retain Sicily for the King of Naples; and if Sicily shall by this time have separated itself from the Neapolitan Crown, it will have been because the prudent advice and urgent entreaties of the Earl of Minto have been disregarded by the advisers of His Neapolitan Majesty.

There is one more point with respect to which the Undersigned is desirous to prevent misapprehension. In a conversation which passed between Prince Cariati and Her Majesty's Chargé d'Affaires at Naples, after the receipt of the ultimatum of the Provisional Government, Prince Cariati expressed an opinion that if Sicily should cast off its allegiance, it would be restored to Naples by the arms of the Allied Powers. Her Majesty's Government are of course unable to say what might be the decision of the other Powers with respect to this point, but as regards any measures to be taken by Her Majesty's Government for such a purpose, the Undersigned begs to inform Prince Castelcicila that the expectations entertained by Prince Cariati are entirely groundless. The Treaty of Vienna contains no guarantee of the union of Sicily and Naples. That Treaty contains only a simple recognition of the fact; and if there be any moral obligation resting upon England in this matter, it would rather be in favour of the Constitution of 1812, which was established in Sicily under British influence. But less importance would appear to attach to the inability of Great Britain to act in the manner desired by Prince Cariati, as Prince Cariati on the occasion above referred to informed Lord Napier "That Naples could do perfectly well without Sicily; that it had formerly, for 10 years during the war, so existed and flourished; that Sicily contributed in no degree to the welfare of Naples, being only of dynastic importance for the House of Bourbon, but of no material interest for the Kingdom of Naples; and that for his part, as a Neapolitan, he wished that the connection would be severed for ever."

The Undersigned, &c.

Prince Castelcicala. PALMERSTON.

No. 159.—*Viscount Palmerston to Lord Napier.*

MY LORD, *Foreign Office, April* 24, 1848.

I HAVE learnt from the Earl of Minto's despatch of the 6th instant, that the King of Naples will neither consent to the transfer of the Crown of Sicily to a younger son nor enter into any other arrangement such as would be accepted in that country. Your Lordship will express to the Neapolitan Government the sincere regret of Her Majesty's Government at this decision of the King of

Naples; and you will say that Her Majesty's Government are entirely at a loss to conjecture upon what grounds and in consequence of what expectations that decision has been taken. It is impossible to suppose that the King of Naples imagines that Sicily is of no value to him, because if that had been his opinion he would not have made such efforts to retain the possession of it. Equally difficult is it to suppose that the Neapolitan Government can fancy that it can by its own unassisted means be able to reconquer the island and reduce it by force again to become subject to the Crown of Naples.

Whence then does the Neapolitan Government expect that the military assistance is to come, by which Sicily is to be subjugated and to be restored to the King of Naples? Is it from Great Britain that such aid is looked for? If so, the Neapolitan Government cannot too soon or too distinctly be disabused of such an error. Under no conceivable circumstances would the British Government send a naval and military force to coerce the people of Sicily, and to compel them against their will to become subjects of a Sovereign to whom they had refused to submit. Is it from Russia that such aid is reckoned upon? It is not for Her Majesty's Government to form an opinion as to the answer which the Russian Government would give to an application from Naples for aid for such a purpose, but it is not difficult to foresee that such succour from Russia to Naples would in all probability draw a similar succour from France to the Sicilians; and the geographical proximity of France compared with the more distant position of Russia would enable the French Government to send to the Sicilians prompter and larger reinforcements than Russia could furnish to the Government of Naples. It seems therefore to Her Majesty's Government that the Government of Naples having made a great mistake in not acceding to the conditions upon which the Sicilians were at one time willing to have remained subject to the Crown of Naples, are now committing a still greater and more irretrievable error by not accepting the offer of the people of Sicily so far to connect the island with the Kingdom of Naples, as to choose for their King a son of His Neapolitan Majesty. I am, &c.

Lord Napier. PALMERSTON.

No. 174.—*Lord Napier to Viscount Palmerston.*—(*Rec. May* 30.)

My Lord, *Naples, May* 16, 1848.

In conformity with the instructions conveyed to me in your Lordship's despatch of the 24th of April, I waited on the 14th instant on Marquis Dragonetti and imparted to his Excellency in presence of the President of the Council, the sentiments of Her Majesty's Government in respect to the affairs of Sicily. I told his

Excellency that Her Majesty's Government had learned with regret that the King of Naples had not acceded to any of the successive proposals of the Sicilians during the time of the Earl of Minto's presence at Naples and at Palermo, and I informed the Minister that the Government of Naples would expect in vain from Great Britain any assistance in the coercion or subjugation of Sicily, while any succour from the part of Russia would be problematical and at best inadequate to the strength which the Sicilian insurgents would in such a contingency be probably enabled to derive from France. I also reported to Marquis Dragonetti that Her Majesty's Government did not recognize in Article CIV of the Treaty of Vienna a guarantee of Sicily to the Crown of Naples, but merely a recognition of the King by a style which nothing prevented His Majesty from altering should he have occasion to do so.

The Minister for Foreign Affairs replied that Article CIV of the Treaty of Vienna did not contain any express guarantee, but that the whole Treaty, from its nature, as the great territorial settlement of Europe, involved a general guarantee and obligation of mutual assistance on the part of the Powers who signed it towards each other and those interested by its separate provisions.

To this I replied I was surprised that with such sentiments the Government of which his Excellency was a member, could deem itself justified in the invasion of the Imperial territory.

His Excellency pleaded as usual the necessity of the case and the force of external pressure.

I then begged to be informed of the views and projects of the Government of Naples in respect to their future relations with Sicily.

He answered that the subject would be brought under discussion in the approaching Parliament at an early period, and that according to their information from Sicily it might yet be possible to negotiate the election of a Neapolitan Prince to the throne of that country.

I have, &c.

Viscount Palmerston, G.C.B. NAPIER.

No 189.—*Viscount Palmerston to Lord Napier.*

MY LORD, *Foreign Office, June* 23, 1848.

WITH reference to what passed between your Lordship and the Marquis Dragonetti, as reported in your despatch of the 16th ultimo, I have to instruct you to explain distinctly to the Neapolitan Minister for Foreign Affairs that there is no general guarantee in the Treaty of Vienna, and that that Treaty imposes no obligation upon any of the Powers who were parties to it to enforce or uphold any of the stipulations and arrangements of that Treaty, excepting such with regard to which there is a special guarantee.

The Contracting Powers have undoubtedly a right to enforce and maintain all and every one of the stipulations of the Treaty if they should think fit to do so, but there is an essential difference between a right and an obligation.

Her Majesty's Government are very glad to hear that there is a likelihood that a Neapolitan Prince may be elected for the Crown of Sicily, and hope that no sinister influence may in the meanwhile produce a republican movement in that island; but if the Neapolitan Government are disposed to favour the wishes of the Sicilians for a Neapolitan Prince it would seem politic for them to lose no time in taking measures with that view; and it is right that the Neapolitan Government should understand that any Prince whom the Sicilians may choose for their King, whether he be a Prince of the Royal Family of Naples or of any other royal house, will be acknowledged by Great Britain as soon as he shall be in possession of his throne.

I am, &c.

Lord Napier. PALMERSTON.

CONSTITUTION of the Republic of Venezuela.—Valencia, December 24, 1858.

(Translation.)

UNDER the auspices of the Supreme Lawgiver of the Universe, we, the Deputies of the provinces of Venezuela, assembled in National Convention, in order to effect the most perfect union, to establish justice, to insure domestic tranquillity, to provide for the common defence, to promote general prosperity, and to secure the precious gift of liberty to ourselves and our posterity, ordain and establish the present Constitution.

TITLE I.—*Of the Venezuelan Nation and its Territory.*

ART. I. The Venezuelan nation is for ever and irrevocably free and independent of every foreign Power, and it is not, nor ever shall be the patrimony of any family or person.

II. The sovereignty resides essentially in the nation.

III. The territory of the Republic comprises all that which, before the political transformation of 1810, was called the Captain-ship-General of Venezuela, with all its rights and appurtenances; and it is divided into provinces, cantons, and parishes.

IV. The unpeopled territories, which are intended for colonies, and those occupied by indigenous tribes, may be separated from the provinces to which they belong, by constitutional congresses, and be governed by special laws.

V. No part of the territory can pass under the dominion of another Power by alienation; but this provision shall not be an obstacle to such transactions as may be indispensable to fix the boundaries between the Republic and the neighbouring nations, provided that no community lose its nationality thereby.

Title II.—*Of the Venezuelans.*

VI. The Venezuelans are:

1. By birth, all who are born in the territorry of Venezuela; the children of a Venezuelan father or mother born in the territory of Colombia; and those of Venezuelan parents born in any foreign country.

2. By adoption, those born in any of the other Spanish-American Republics, with no other condition than that of proving their origin, and stating their wish to become Venezuelans, before the authority determined by law.

3. By naturalization, foreigners already naturalized, and those who obtain letters of naturalization in conformity with the law.

Title III.—*Of the Government of Venezuela.*

VII. The Government of Venezuela is and always shall be republican, popular, representative, responsible, and alternative.

VIII. The people exercise the sovereignty directly in the elections, and indirectly by the public powers which this Constitution establishes.

IX. The public power is divided into national and municipal.

X. The national power is divided into legislative, executive, and judicial.

Title IV.—*Of the Citizens.*

XI. The following are citizens, and therefore have the right of electing for the exercise of the public powers:

1. All Venezuelans 20 years of age.

2. Those who are or have been married, although not of that age.

XII. The rights of the citizens are suspended:

1. By mental alienation.

2. By condemnation to bodily punishment, in virtue of an executory sentence, whilst the said punishment is in execution.

3. By judicial interdiction.

Title V.—*Of Individual Rights.*

XIII. Slavery is abolished for ever in Venezuela, and all slaves are declared free who tread upon its territory.

XIV. Every Venezuelan has the right of expressing his thoughts

and opinions by means of the press, without need of previous censure, and also by word of mouth, and in any other way, but under the responsibility determined by law, in cases of offence against public morality, or of attack upon private life. Trials in matters of the press shall be by jury.

XV. All Venezuelans have the right of meeting and assembling without arms for any purpose, public or private, and of making such representations to the authorities as they may think fitting.

XVI. All Venezuelans have the right of exercising any profession or calling whatever, excepting only such as are the property of other persons by privilege granted according to law, such as are injurious to public morality, or the health of towns, and such as obstruct the ways of communication.

XVII. All Venezuelans have the right of passing through the territory of the Republic and of departing from it, without need of passport, unless this has been prohibited by the judicial authority in the cases determined by law.

XVIII. No one can be withdrawn from his natural judges, or brought before commissions or extraordinary tribunals, nor can any one be tried, except by laws anterior to his offence or act, or have sentence passed upon him until after he has been heard and legally convicted.

XIX. No Venezuelan can be taken, arrested, or detained, except by virtue of an order signed by the competent authority, in which the cause is expressed, and of which a copy shall be given to the person arrested; unless he be caught *flagrante delicto*, for in that case any one may apprehend him, in order to take him immediately before the magistrate.

XX. In criminal matters the order for apprehension or arrest cannot be issued without previous summary inquiry, showing that a deed has been done which is punishable by law with corporal punishment, and that there are good grounds for believing that it was committed by the person against whom the order for apprehension or arrest is issued, and who must be set at liberty on bail, at whatever stage of the proceedings it may appear that the said punishment cannot be inflicted.

XXI. Every one arrested in a criminal case, must be charged, within the 3 days following his apprehension, with the offences resulting from the summary inquiry which occasioned it, in order that, being duly informed thereof, he may answer them and defend himself.

XXII. The jailer or governor of the prison cannot receive any one under arrest without the order mentioned in Article XIX, nor prohibit him from communication without written directions from the magistrate, who can in no case extend it beyond 3 days.

XXIII. The jailer or governor cannot apply any other kinds of confinement than those which have been expressly directed in writing by the magistrate, who can only order that such be employed as are absolutely necessary to prevent escape, or any disorder in the prison.

XXIV. In criminal cases no one shall be obliged to bear witness against himself, nor against his forefathers, descendants, wife, and other relations, to the fourth civil degree of consanguinity and second of affinity.

XXV. The domestic hearth and the secrecy of letters and private papers are inviolable; the former cannot be encroached upon, nor the latter opened or read unless by competent authority, and in the cases and with the formalities prescribed by law.

XXVI. No one can be deprived of the least portion of his property, nor can it be applied to any public use without his consent, or that of Congress. When the common interest, legally proved, requires this, it must always be on the supposition of a just compensation.

XXVII. All Venezuelans are equal before the law.

XXVIII. The foregoing enumeration of rights is not to be understood as a negation of any other rights whatever which belong to individuals, and which may not be included under this title.

XXIX. Foreigners in Venezuela enjoy the same individual rights and safeguards as the Venezuelans, and are subject, like them, to the laws and authorities of the Republic

Title VI.—*Of the Legislative Power.*

XXX. The Legislative power is exercised by a Congress consisting of two Chambers, one of Deputies, and the other of Senators.

XXXI. The Congress shall assemble every year in the capital of the Republic on the 20th of January, without need of letters of convocation, and its sessions shall last for 90 days. If, by any accident, it should not be able to assemble on the appointed day, it shall do so as soon after as possible.

XXXII. Neither of the Chambers can open its sessions without the presence of two-thirds of its members; but at all events, the members present, whatever their number may be, are to assemble and compel the absentees to attend.

XXXIII. When the sessions have been opened with the number prescribed in the preceding Article, they may continue in each Chamber with the presence of one more than half the whole number of members belonging to it.

XXXIV. The Chambers shall be installed by themselves, they shall open and close their sessions on the same day, and shall hold

them in the same town. In order to agree upon their removal to a particular place, or to suspend their sessions for more than two days, the Chambers shall assemble together, and what the absolute majority of Congress agrees to shall be decided upon.

XXXV. Each Chamber has the right of making the regulations to be observed in its sessions, debates, and deliberations, and can establish therein the penalties which the members are to suffer who infringe them, even to expulsion from its body if so decided by two-thirds of the Chamber.

XXXVI. The Chambers administer the police in the building wherein they hold their sessions, and they can dictate such measures as may secure the free exercise of their functions.

XXXVII. The exclusive resolutions of each Chamber do not require the sanction of the President of the Republic, nor yet the consent of the other Chamber.

XXXVIII. The Chambers assemble together in Congress when determined by the Constitution or the law, or in any other case when they may consider it necessary. On these occasions the President of the Senate shall preside, and the President of the Chamber of Deputies shall be Vice-President.

XXXIX. The sessions of the Chambers shall be public, but they may be secret when the Chambers consider it requisite.

XL. The Senators and Deputies bear those characters for the nation, and not for the province which appoints them.

XLI. Neither the President nor the Vice-President of the Republic, nor the Secretaries of State, nor the administering judges of the Supreme and Superior Courts, nor Governors, nor soldiers on actual service, can be elected as Senators or Deputies.

XLII. The exercise of any other public function is incompatible during the sessions with that of Senator or Deputy.

XLIII. The Senators and Deputies enjoy immunity for their persons and property when they are in sessions, and while going to Congress and returning to their homes. They can, therefore, neither be sued nor be taken in execution in civil cases; nor can they be arrested or detained unless for a crime of which the penalty is capital punishment, information whereof must be given to the respective Chamber with the summary inquiry into the fact. In other cases, when a Senator or Deputy may have committed an offence liable to another punishment, corporal or degrading, the magistrate shall at once transmit the summary inquiry to the respective Chamber, in order that, according to the merits of the case, it may suspend the accused and place him at the disposal of the competent magistrate. The law will fix the time that has to be allowed for going to Congress and returning home.

XLIV. The Senators and Deputies are not responsible at any

time, or before any authority, for the speeches and opinions which they may have delivered in the Chambers.

XLV. The Senators and Deputies cannot accept any appointment at the free disposal of the Executive Power, excepting those of Secretaries of State, diplomatic posts, and military commands in time of war; but the acceptance of those appointments vacates their places in the Chambers.

XLVI. The acceptance of the posts of Senators and Deputies is free; but after acceptance it belongs to the respective Chamber to permit the resignation of them.

XLVII. The Senators and Deputies shall receive the allowance fixed by law for the days while the sessions last, and for travelling expenses going to Congress and returning home.

XLVIII. Each Chamber is competent to decide on the invalidity or nullity of the elections of its members.

TITLE VII.—*Of the Chamber of the Senate.*

XLIX. The Senate shall be composed of two Senators for each province, elected by the Provincial Legislatures, by absolute majority of votes; and the election of the substitutes shall be made in the same manner.

L. The Deputies to the Provincial Legislatures cannot be appointed Senators, either principal or substitute, for the province in which they are Deputies.

LI. The appointment of the Senators shall be for 4 years, one-half being renewed every two years.

LII. For the office of Senator it is required:

1. To be a citizen in the exercise of his rights.

2. To be full 30 years of age.

3. To be a native or an inhabitant of the province which elects him.

4. To be owner of real property producing an annual income of 1,200 dollars, or to be in a profession, employment or office producing 1,500 dollars or having a salary of 2,000 dollars.

LIII. The special attributions of the Senate are:

1. To complete the election and to accept the resignations of the Members of the Supreme Court.

2. To grant or refuse its consent to promotions to the rank of Colonel or Commander in the Army, and to that of Captain of a ship or frigate in the Navy.

3. To conclude and pass judgment in trial cases begun in the Chamber of Deputies.

LIV. In order to pass judgment in the causes of which it takes cognisance in conformity with this Constitution, the Senate shall incorporate the Supreme Court of Justice into its own body, with

a deliberative vote; and besides the penalty of deposition, it may impose any other which the law prescribes against the delinquent.

LV. No accused person can be condemned unless by two-thirds of the whole body of those who have to pass definitive judgment, in conformity with the preceding Article.

LVI. The procedure in the trials within the competency of the Senate shall be determined by a law.

LVII. When the Senate takes cognizance in a cause against the President or Vice-President of the Republic, if it be not concluded during the sessions, the Senate shall continue together for this sole purpose until it shall be finished.

TITLE VIII.—*Of the Chamber of Deputies.*

LVIII. The Chamber of Deputies shall be composed of those who are elected by the citizens of the Provinces by relative majority of votes, in direct and secret voting, in the proportion of one Deputy for every 25,000 souls, and one more for an overplus of 15,000. A province which does not contain 25,000 souls, shall still appoint a Deputy. The substitutes shall be appointed in the same manner and in the same proportion. This basis may be extended by law.

LIX. For the office of Deputy it is required:

1. To be a citizen in the enjoyment of his rights.

2. To be full 25 years of age.

LX. The Deputies shall continue in the exercise of their functions for 4 years, half of them being renewed every two years.

LXI. The special attributions of the Chamber of Deputies are:

1. To examine the annual accounts which the Executive has to lay before it.

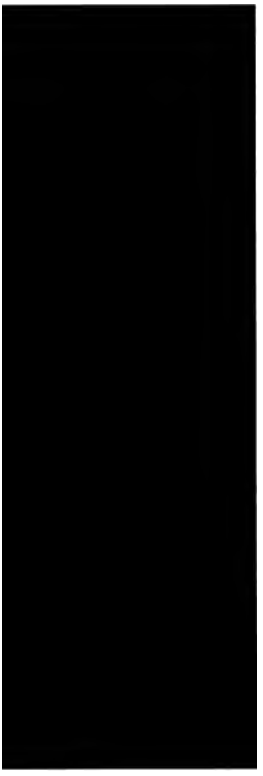
2. To hear the accusations against the President and Vice-President of the Republic, against the Designate, the administering judges of the Supreme Court and the Secretaries of State, in the cases determined by this Constitution.

LXII. When an accusation with documents is brought against any of the functionaries mentioned in the preceding Article, the trial by the Chamber shall be limited to a declaration by two-thirds of the members whether there are grounds for the institution of proceedings.

LXIII. If it be declared that there are grounds for the institution of proceedings, the accused shall be thereby suspended from his office, and the Chamber shall transfer the case to the Senate.

TITLE IX.—*Of the Attributions of the Congress.*

LXIV. The attributions of the Congress are:



to approve or reject it.

7. To create and suppress th other national offices, including assign their salaries.

8. To decree the naval and mil

9. To decree the recruiting organization of the national militi

10. To decree war on consid by the Executive Power, and to r peace.

11. To give or withhold its a ventions concluded by the Execut

12. To decree annually the p which are to be submitted by the spective departments, and a sum f

13. To decree what is fitting tion, and alienation of the nationa

14. To contract debts on the c

15. To allow the establishme tecarias) and private banks, upon fit to determine.

16. To promote, by laws or co zation of the rivers, the opening o they be of national utility.

17. To promote the educatio the sciences and arts, and the in

23. To choose the place for the seat of the Government.

24. To create new provinces on first receiving the petition from the municipal corporations and the report of the Provincial Legislatures, provided that every one of the provinces which are to be created has a population of at least 50,000 souls and sufficient land for its extension; and that the province or provinces from which the cantons are separated still have a population of not less than 100,000 inhabitants.

25. To unite two or more provinces into one, on first receiving the petition of the majority of the cantons thereof, and the report of the respective Legislatures; and to alter the boundaries of provinces at the request of the inhabitants of the respective lands, and with the report likewise of the Legislatures.

26. To grant or refuse the passage of foreign troops through the territory of the State.

27. To admit foreigners into the military service of the Republic, or to refuse them admission.

28. To perform the scrutiny and complete the election of the President and Vice-President of the Republic, and to accept or decline their resignations.

29. To give or refuse its consent to promotion to the rank of General.

30. To promote the immigration and colonization of foreigners.

31. To elect the Designate who has to replace the Vice-President of the Republic.

32. To legislate upon all matters within the competency of the national power, to reform and repeal the established laws.

LXV. Neither the Congress nor either of the Chambers can:

1. Bring to trial or impose a penalty on any Venezuelan, whether public functionary or not, except in the cases mentioned in this Constitution; not even as a condition of the pardons which it may grant.

2. Apply any amount of the national treasure for the municipal expenses of the provinces, nor dispose of the municipal revenues for the expenses of the nation

3. Delegate any of its attributions to another authority or body.

TITLE X.—*Of Framing the Laws.*

LXVI. The projects for the laws or decrees of the Congress may originate in either of the two Chambers, on the proposal of the members, or of the Executive Power through the medium of the Secretaries of State, excepting those which impose taxes, which must necessarily originate in the Chamber of Deputies. The estimates must also have their origin in the Chamber of Deputies.

LXVII. Every project before it becomes law must be discussed

three times in each Chamber, with an interval of a day at
and must be approved by the absolute majority of the me
present at the respective sessions.

LXVIII. If one Chamber reject a project approved b
other, the project remains without effect; but if it be only al
in the second Chamber, the first may agree to the alteratio
insist upon the original project; if it should insist and the
Chamber should likewise persist in the alterations, the project
remains without effect.

LXIX. No project shall have the force of law, although it
have been approved by both Chambers, until it has been ordere
execution by the Executive Power, to whom it is to be transm
by the Chamber in which it originated. If the Executive P
should consider the execution of the project inconvenient, he
object to it, and return it, with his observations, to the
Chamber, within 10 days from the time of his receiving it.
Chamber shall then consider the project again with the object
and may insist on its approval by the votes of the absolute maj
of the members present; in this case, it shall transmit the pr
with the objections to the other Chamber, which shall reconsid
in the same manner, and if both insist, the project shall have
force of law, and the Executive Power shall order its execu
without further observations.

LXX. In case that the two Chambers should not be agreed
that either of them should not insist upon any project objecte
by the Executive Power, that project cannot be brought for
again during the same sessions.

LXXI. If, within the ten days allowed to the Executive P
to object to a project or to order its execution, he should do nei
the one nor the other, it shall have the force of law, and sha

pending at the end of the sessions of one year, shall be considered in the following sessions as newly introduced in the Chamber where it appears, and shall therefore undergo therein the debates prescribed by this Constitution.

LXXIV. On transmitting the projects from one Chamber to the other and to the Executive Power, the dates at which they were discussed shall be mentioned.

LXXV. Any law which reforms another must be completely drawn out, including therein all the provisions which remain in force, and declaring the reformed law abolished.

LXXVI. For the laws passed in separate Chambers the Congress shall make use of this formula: "The Senate and the Chamber of Deputies of the Republic of Venezuela, decree;" and for the acts issued in United Chambers, it shall use this: "The Senate and the Chamber of Deputies of the Republic of Venezuela, assembled in Congress, decree."

LXXVII. No law shall be binding until it shall have been promulgated.

LXXVIII. The laws are repealed with the same formalities as those with which they are passed.

TITLE XI.—*Of the Executive Power.*

LXXIX. The Executive Power shall be in charge of a magistrate who shall be called President of the Republic.

LXXX. The absence of the President shall be supplied by a Vice-President, and the absence of the latter by a person to be annually designated by the Congress in United Chambers, elected in the form established by this Constitution for the completion of the election of the President of the Republic.

LXXXI. The President and the Vice-President shall be elected by the direct and secret voting of the Venezuelans who are in the enjoyment of the citizenship.

LXXXII. To be President of the Republic it is necessary to be a Venezuelan by birth, and a citizen in the enjoyment of his rights.

LXXXIII. For the Constitutional election of the President of the Republic it is necessary that the absolute majority of the votes of all who have voted should be in favour of one person. If no one should have obtained that majority, the Congress shall confine the election to the 3 who have obtained the greatest number of votes, beginning by deciding on those 3 persons by secret voting, if there be several who have obtained an equal number of votes from the popular suffrage.

LXXXIV. When the 3 persons to whom the voting is to be confined have been nominated, the Congress shall proceed to the

election of one of them by ballot, and shall declare him constitutionally elected who shall have obtained two-thirds of the votes of the members present. If no one should have obtained that majority, the proceeding shall be repeated, restricting it to the two who have obtained most votes; and if, after two more ballotings, no one should have obtained two-thirds of the votes, the absolute majority shall be sufficient for the election. In case of equality the voting shall be continued until a majority is obtained.

LXXXV. The election of President of the Republic shall take place in permanent session, from which none of the members who have given their votes in the first ballot, shall be at liberty to retire without the permission of Congress; nor shall any one be admitted who has not taken part in that ballot.

LXXXVI. The President shall continue in office for 4 years: and he cannot be re-elected until after one constitutional period at least.

LXXXVII. The qualifications for Vice-President, the form of his election, and his duration in office are the same as have been established for the President.

LXXXVIII. No person can be elected as President or Vice-President who is related to those who are President or Vice-President at the time of the election, within the fourth civil degree of consanguinity or the second of affinity.

LXXXIX. The election of President and Vice-President shall take place two years apart from each other, for which purpose the first Vice-President shall only remain in office for two years.

XC. The President of the Republic ceases from the exercise of his functions on the 20th of January of the year in which the constitutional period ends; and on the same day the Vice-President shall take charge of the Executive Power until Congress has given

President elected in such a case shall only remain in office for the time wanting to complete the respective period.

XCIV. The President is the Chief of the general administration of the Republic, and as such has the following attributions:

1. To preserve internal order and tranquillity, and to secure the State against every external attack.

2. To order the execution of the laws, decrees and acts of the Congress, and to take care that they be promulgated and executed.

3. To convoke the Congress at the ordinary periods; and also extraordinarily if he should consider it necessary on account of any serious occurrence.

4. To exercise the supreme command of the naval and military forces of the Republic.

5. To call out the Militia for service when the Congress has decreed it.

6. To declare war in the name of the Republic, the Congress having previously passed the decree.

7. To conduct the diplomatic negotiations, and to conclude Treaties and Conventions with foreign nations.

8. Freely to appoint and remove the Secretaries of State.

9. To appoint the diplomatic Ministers and agents, when the places have been created by law; also the Consuls, Vice-Consuls, and commercial agents.

16. To promote to the rank of General with the consent of the Congress in united Chambers, to that of Colonel and Commander in the army, and of Captain of a ship and of a frigate, with the previous approval and consent of the Senate; and to inferior offices in conformity with the laws on the subject.

11. To grant discharges and leave of absence to soldiers and other persons in the service, in accordance with the provisions of the law.

12. To issue patents for navigation; and also letters of marque and reprisal when Congress has decreed them.

13. To grant letters of naturalization in conformity with the law.

14. To appoint to all civil, military, and exchequer offices, the appointment to which is not reserved to some other authority.

15. To suspend from their offices those public servants who are freely appointed by the Executive Power, when they infringe the laws, his decrees or orders, on condition of placing them at the disposal of the competent authority, within 3 days, with the report or documents that have caused the suspension, in order that they may be tried.

16. To remove the said civil servants from their offices, when the

public service requires it, excepting in the cases wherein the Constitution or the laws direct otherwise.

17. To see that the collection and application of the national taxes and revenues take place in accordance with the law.

18. To commute the punishment of death for some other severe punishment, when there are weighty reasons for so doing; hearing first the report of the tribunal which has passed the final sentence. But this attribution cannot be made use of in favour of those sentenced by the Senate.

XCV. In cases of armed internal commotion threatening the security of the Republic, or of sudden external invasion, the President may request the Congress to authorize him to exercise the following powers:

1. To call out for service such part of the national militia as the Congress shall think necessary.

2. To demand the taxes in anticipation, or to negotiate loans for the requisite sums, if the expenses cannot be met with the ordinary revenues.

3. To establish what may be required for passing through, or going out of, the Republic with a passport.

4. To grant general and individual pardons to those compromised in political offences.

XCVI. If the Congress should not be assembled, the President of the Republic, in the cases referred to in the preceding Article, shall convoke an extraordinary council composed of the Supreme Court of Justice, the Vice-President of the Republic, and the Secretary who makes the request, presided over by the President of the Supreme Court; this body may grant him, by two-thirds of its votes, the powers which are mentioned in the said Article. This resolution shall be published and circulated among all the authorities.

XCVII. The powers mentioned in Article XCV cannot be granted for more than 90 days.

XCVIII. The Executive Power shall render an account to the Congress, within the first 8 days of its next meeting, of all that he has done in the exercise of the powers referred to in the 3 preceding Articles.

XCIX. The President of the Republic cannot leave its territory during the period of his administration, nor for a year afterwards, nor can he command the naval and military force in person.

Title XII.—*Of the Secretaries of State.*

C. For the transaction of the business belonging to the Executive Power, there shall be as many Secretaries as the law may determine.

CI. The same qualifications are required for a Secretary as for a Deputy.

CII. All the acts of the President of the Republic, excepting the appointment and removal of the Secretaries, must be authorized by the Secretaries of the respective departments, without which requisite they shall not be obeyed.

CIII. The Secretaries shall give an account of the state of their respective departments annually to the Chambers, within the 15 days following their installation.

CIV. The verbal or written order of the President does not clear the Secretaries from responsibility.

CV. The Secretaires of State shall be present at the sessions when called for by either of the Chambers, or when they themselves think it fitting; in any case they have a voice but no vote.

TITLE XIII.—*Of the Judicial Power.*

CVI. The judicial power is exercised by a Supreme Court, by superior courts, and by the inferior tribunals and courts established by law.

CVII. In criminal causes justice shall be administered by juries, when and in conformity with what future constitutional Congresses may direct.

TITLE XIV.—*Of the Supreme Court.*

CVIII. The Supreme Court shall be composed of at least 5 administering judges.

CIX. To be an administering judge of the Supreme Court, it is required:

1. To be a citizen in the enjoyment of his rights.
2. To be full 40 years of age.
3. To have been a magistrate of a superior court for 6 years, or to have practised as an advocate in the Republic for 12 years.

CX. The administering judges of the Supreme Court shall be elected by the provincial Legislatures. Two persons must be chosen for each place, one of them, at least, not an inhabitant of the province which makes the election. The voting shall be by ballot.

CXI. To provide against the temporary or permanent deficiency of the administering judges of the Supreme court the Congress shall nominate annually in united Chambers, the number of advocates determined by law; who shall be called upon by that court to supply such deficiencies when they occur; nevertheless, in cases of permanent deficiency, notice shall be given to the provincial Legislatures to fill up the vacancy; the appointment is then to be made in the form established by this Constitution.

CXII. Each provincial Legislature shall transmit to the Senate a certified copy of the election mentioned in Article CX; the Senate

shall declare those elected who have obtained the majority of votes; and if there should be any one or more who have not obtained that majority, the Senate shall proceed to elect the administering judge or judges who may be without it, in the form and manner prescribed for the election of President of the Republic.

CXIII. The attributions of the Supreme Court are:

1. To unite with the Chamber of the Senate in order to pass judgment in cases brought against the President of the Republic, or against the Vice-President and Designate when they have charge of the Executive Power; against the Secretaries of State, or the administering judges of the court itself in the cases of Article CXLVII.

2. To decree the suspension, and to take cognizance in actions which are brought against the Vice-President of the Republic for ordinary offences when he is not in charge of the Executive Power; against the Secretaries of State and the administering judges of the court itself.

3. To take cognizance in litigated matters amongst the Ministers, Plenipotentiaries, and other Diplomatic Agents, accredited to the Government of the Republic, in the cases allowed by international law, or provided for by treaties.

4. To take cognizance in actions for responsibility against the Diplomatic and Consular Agents of the Republic, for misconduct in the discharge of their functions.

5. To take cognizance in controversies arising out of contracts or negotiations made or carried on by the Executive Power himself, or through agents.

6. To decree the suspension, and take cognizance in actions which are brought against the Governors for responsibility, at the instance of the Executive Power or of any citizen, on consideration of the grounds which there may be for requiring the suspension.

7. To resolve the doubts of the other tribunals in regard to the interpretation of any law, reporting thereon to the Congress for the establishment thereof, if it be considered necessary.

8. To declare, on the petition of any citizen, the nullity of the legislative acts sanctioned by the provincial Legislatures, when they are contrary to the Constitution.

9. To complete in the manner established in Article CXII, the election of the administering judges of the superior courts, made by the provincial Legislatures, when any one or more of them may not have obtained the absolute majority; and to provide temporarily for the vacancies.

10. To report to the Congress whatever may be fitting for the improvement of the administration of justice.

11. To decide the questions which arise among the provinces, or between one or more provinces and the national Government of the

Republic, respecting competency of powers, respecting rights of property, or respecting any other cause of dispute.

12. To perform such other duties as may be determined by law.

CXIV. The administering judges of the Supreme Court cannot, while they are in office, accept any employment on the appointment of the Executive Power.

TITLE XV.—*Of the Superior Courts and the other Tribunals of Justice.*

CXV. The superior courts shall be composed of 3 administering judges at least.

CXVI. To be an administering judge of the superior courts it is necessary:

1. To be a Venezuelan in the enjoyment of citizenship.
2. To be 30 years of age.
3. To be an advocate, not suspended.
4. To have been a judge, assessor, or auditor for 4 years at least; or to have exercised the profession of advocate for 6 years.

CXVII. The superior courts and the other tribunals and courts of justice will be organized by law, and their powers, as well as the manner of exercising them, will be determined in the same way.

TITLE XVI.—*General Provisions regarding the Judicial Order.*

CXVIII. The magistrates and judges cannot be suspended from their offices, except by decree declaring that there is ground for instituting proceedings; nor can they be dispossessed except upon executory sentence.

CXIX. The administering judges of the Supreme and superior courts, shall remain in office for 4 years, one-half being renewed every two years; and they may be re-elected.

CXX. The office of administering judge of the Supreme and superior courts is incompatible with the exercise of any profession or public employment.

CXXI. All the tribunals and courts are obliged to give the reasons for their sentences.

TITLE XVII.—*Of the Municipal Power.*

CXXII. The municipal power shall be exercised by a Legislature, and a Governor in the provinces; by a council and a municipal chief in the cantons; and by such other functionaries and bodies as may be established by the provincial Legislature.

TITLE XVIII.—*Of the Provincial Legislatures.*

CXXIII. In every province there shall be a Legislature composed of the Deputies appointed by the cantons, at the rate of 3 Deputies for each canton. The province, which may contain less than 4

cantons, shall still appoint 12 deputies, distributing that numbe equally among the cantons.

CXXIV. The deputies for each canton shall be appointed by th direct and secret vote of the citizens of the canton every two years and persons may be elected who are not inhabitants of the canto

CXXV. The substitutes for the provincial Legislature shall b elected in the same manner and in the same proportion as th principal Deputies.

CXXVI. The principal Deputies and the substitutes for th provincial Legislature must be citizens in the exercise of thei rights.

CXXVII. The Legislatures cannot instal themselves, nor con tinue their sessions with less than two-thirds of the whole numbe of their members. They shall assemble every year on the 1st o October in the capital of the province, and every ordinary sessio shall continue 40 days.

CXXVIII. The attributions of the provincial Legislatures are

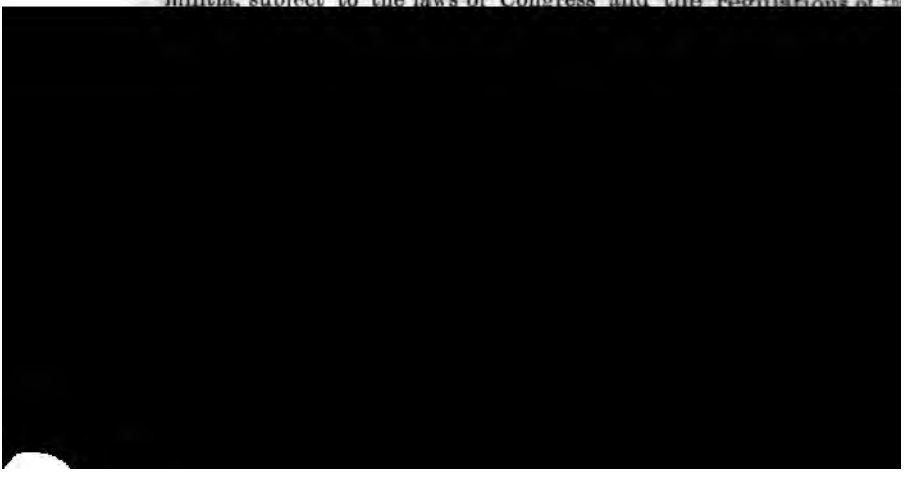
1. To elect the administering judges of the Supreme Court o Justice, in the manner determined by this Constitution.

2. To appoint the administering judges of the superior court o their respective districts, in the same manner as is established i this Constitution, for the election of the administering judges o the Supreme Court.

3. To elect the principal Senators and the substitutes for th province.

4. To organize the Government and administration of the canton and parishes.

5. To make the necessary arrangements for the appointment o the officers of the national militia, and for the instruction of th militia, subject to the laws of Congress and the regulations of th



CXXIX. The provincial Legislatures cannot:

1. Impose taxes upon the external trade of importation or exportation.

2. Pass any resolution contrary to the privileges granted by the Congress or the Executive Power, in conformity with the law.

3. Impose obligations on the corporations or functionaries exclusively national.

4. Burden the national property and effects with impositions.

5. Subject the inhabitants of another province, or their property to other burdens than those which weigh on the inhabitants and property of their own province.

CXXX. The decrees and resolutions of the provincial Legislatures shall be transmitted to the Governor for execution, and he shall have the power of objecting to them within the 5 days following that on which he has received them. The objections made by the Governor shall be considered by the Legislature, and if it insists upon its resolution by the votes of the absolute majority, the resolution shall be carried into effect.

CXXXI. The provisions of Article LXXI shall apply in their respective cases to the Governor and the provincial Legislature, without any other difference than that of the fixed term.

CXXXII. The provincial Deputies are not responsible for the speeches and opinions which they deliver in the Chamber; and they shall enjoy immunity to the same extent as the members of the Congress.

Title XIX.—*Of the Governors.*

CXXXIII. The provincial Executive Power shall be exercised by a magistrate with the title of Governor.

CXXXIV. The superior political and administrative Government, and the order and security of the province shall be in charge of the Governor, to whom all the officials, of whatever rank, belonging to the province shall be subordinate.

CXXXV. The Governors are agents of the national Power, and as such they shall fulfil the Constitution and the laws of the Republic, and cause them to be fulfilled, and they shall execute the orders which they receive from the Executive Power in matters within his competence, provided they be not opposed to the Constitution and laws.

CXXXVI. The Governor must be a citizen in the enjoyment of his rights, and his tenure of office shall be for 4 years.

CXXXVII. The Governors shall be elected by the absolute majority of the citizens who have the suffrage in the province, by direct and secret voting. In case no candidate should have obtained that majority, the provincial Legislature shall complete the election

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CXXXV. The Governors are agents of the national Power, and as such they shall fulfil the Constitution and the laws of the Republic, and cause them to be fulfilled, and they shall execute the orders which they receive from the Executive Power in matters within his competence, provided they be not opposed to the Constitution and laws.

CXXXVI. The Governor must be a citizen in the enjoyment of his rights, and his tenure of office shall be for 4 years.

CXXXVII. The Governors shall be elected by the absolute majority of the citizens who have the suffrage in the province, by direct and secret voting. In case no candidate should have obtained that majority, the provincial Legislature shall complete the election

Constitution, and to fulfil the duties of his office faithfully and exactly.

CLXI. The President and Vice-President of the Republic shall take this oath in presence of the Congress and at the hands of its President; the Presidents of the National and provincial Chambers, and those of the Supreme and superior courts of justice, in presence of the respective bodies; and the members of these bodies, at the hands of their respective Presidents.

CLXII. The Secretaries of State shall take the oath before the President of the Republic; the Governors before the Municipal Council of the capital of the province; and the other civil and military officials before the respective Governors, or before the authority appointed by them.

TITLE XXIV.—*Of Reforming the Constitution.*

CLXIII. The reformation of any one or more Articles of this Constitution may be proposed in either of the Chambers, by any number of its members; but before the proposed reforms can be discussed the necessity thereof must be declared in each Chamber by two-thirds of the members present. When the necessity of the reform has been declared, the Chamber which has proposed it shall draw up the project accordingly, in order that it may be discussed with the same formalities as the laws, in the next session, meanwhile the reform shall be published through the press.

CLXIIII. The power granted to Congress by the preceding Article does not extend to any alteration of the form of Government, which shall always be republican, popular, representative, responsible, and alternative.

TITLE XXV.—*Transitory Provisions.*

CLXV. The present Constitution shall be promulgated with the solemnity and formalities established by the decree of 24th September, 1830, and shall be immediately put in execution, all laws and decrees, in so far as they are not opposed to it, still remaining in force; and, in order to effect the renewal prescribed in Articles LI, LX, and CXIX, the National Chambers at their first meeting, and the Supreme and superior courts on their installation, shall decide by lot on the half of their respective members, or the greater number if it should be uneven, who have to retire at the end of the second year.

Given at Valencia, in the Sessions-hall of the National Convention, and signed by the Deputies present, on the 24th day of December, 1858.

JOSE MONAGAS.

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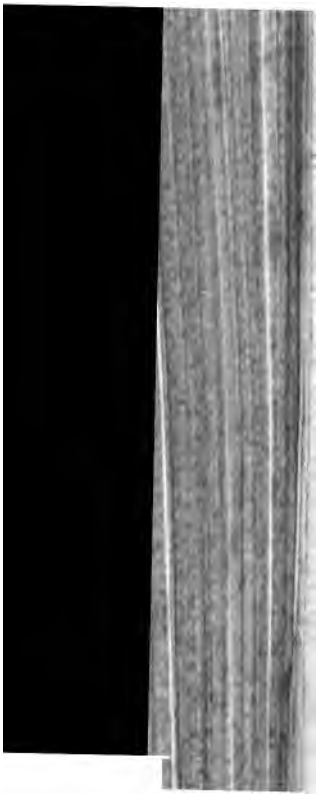
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